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कात्यायनस्मृतिसारोद्धारः

KATYAYANASMRTISARODDHARA

OR

KATYAYANASMRTI

ON

VYAVAHARA (LAW AND PROCEDURE)

Editor, General Editor
Dr. V. Srinivasa Sharma
Director I/c

Assisted by
K.V.SuryaPrakash
Research Assistant

SANSKRIT ACADEMY
(ADARSHA SHODHA SAMSTHA)
RASHTRIYA SANSKRIT SANSTHAN NEW DELHI
OSMANIA UNIVERSITY
HYDERABAD
2013

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निदेशकः (ऐ.सि.)

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डा.वि.श्रीनिवास शर्मा
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सहायकः
के.वि.सूर्यप्रकाशः
शोधसहायकः

संस्कृतपरिषत्
(राष्ट्रियसंस्कृतसंस्थानेन मानिता आदर्शशोधसंस्था)
उस्मानिया विश्वविद्यालयः, हैदराबाद्
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FOREWORD

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Dharmasastra literature can be broadly three categories – the Sutra literature, the Smrti literature and the *Nibandhas* or law digests. Sutras are short aphorisms which usually require a commentary for the meaning to be made explicit. Dharmasutras are a part of the Vedanga called Kalpa which itself has four parts – Srautasutras and Sulbasutras forming one related pair and the Grhyasutras and Dharmasutras forming another. Works such as Baudhyanasutra and, Apastambasutra are an example of the sutra literature. Smrtis come, roughly, later in the development in of Dharmasastra, though some scholars opine that certain Smrtis like that of Manu are earlier than certain Sutras, like the Visnudharmasktra. In fact P. V. Kane in his History of Dharmasastra classifies ManuSmrti along with the Sutra period (p 545, Vol. 1, 2nd ed.). The material given in Smrti is intelligible by itself, though many Smrtis have also been explained by detailed commentaries. Smrtis are usually metrical compositions though some intervening prose is also seen occasionally. Smrtis are said to be eighteen in number, though different ancient authors quote different numbers like nineteen or twenty also (and different names). The third category called Nibandhas are compilations of the views of various ancient Sastrakras on different topics. Sutras are usually limited to the followers of a particular sakha or branch of Veda. Thus, while many Krsnayajurvedins follow the Apastambasutra, quite a few rgvedins follow the Asvalyanasutra; ManuSmrti and YajnvalkyaSmrti are followed in general rather than by a particular denomination and Nibandhas have asserted this special characteristic of Dharmasastra – namely the general applicability – as compared to the Grhyasutras etc. by compiling the views of ancient writers on different topics.

The word "Smrti" is used in two sense in Dharmasastra– first, to refer to works authored by humans, based on what they recollect from the Veda. This is defined in Manu 2-10:

श्रुतिस्तु वेदो विज्ञेयो धर्मशास्त्रं तु वै स्मृतिः ।
ते सर्वार्थेष्वमीमांस्ये ताभ्यां धर्मो हि निर्बभौ ।।

This is the usual sense of the word as used in works of Dharmasastra and other sastras. Thus, Vyakarana is referred to as Smrti

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by Bhartrhari in Vakyapadiya (1-142) and Sankara in his commentary on Brahmasutra (1-3-28, नचायमेकप्रत्ययो वर्णविषया स्मृतिः). However in literature about Dharmasastra, especially that written in English, "Smrti" is used to refer to Smrtigranthas such as Manusmrti and Yajnavalkyasmrti.

Among the eighteen (or nineteen or twenty) Smrtis, only two are available in full - Manusmrti and Yajnavalkyasmrti. Naradasmrti has also been printed but some scholars feel that the extant text might not be the full text. A few other Smrtis have been reconstructed – to different extents – from the quotations in the Nibandhas. Since the Nibandhas are both lengthy and many, quotations in all the nibandhas cover quite a wide part of the text. For instance, the printed Naradsmrti contains about a thousand verses, of which about seven hundred are quoted in the Nibandhas. This wide "coverage" of the Smrtis in the Nibandhas opened the scope for reconstruction of Smrtis.

The Katyyanasmrti's reconstruction is one of the best examples of such a reconstruction, which was done in three stages. First, in 1927, Narayan Chandra Bandopadhyaya, a lecturer in History and Anthropology collected 826 verses pertaining to Vyavhara and published it as the *Katyayanamatasangraha.* In this work, he had collected verses from four Nibandhas – the *Vivadaratnakara, Viramitrodaya, Smrticandrika* and *Dayabhaga,* and also attached appendices of 16 verses pertaining to rajadharma from the *Rajanitiprakasika,* and additional material amounting to 53 verses from the Parasaradharmasamhita. Then, in 1933, P. V. Kane published *Katyyanasmrtissraoddhra.* This work contained 973 verses collected from 20 works. Finally in 1942, an additional 121 verses from *Vyavaharanirnaya,* representing the so-called South Indian school, have been published by K. V. Rangaswami Aiyangar, also a Professor of Economics. Thus, we have nearly 1,100 verses from Katyayana reconstructed from 21 Nibandhas, compiled by three scholars from the East, West and South of India available in three different books.

Of the three sections of Dharmasastra– acara, prayascitta and vyavahara – only those dealing with vyavahara are reconstructed. This is so, because Katyayana is most quoted in matters pertaining to vyavahara. The fact that a verse has been quoted conveys that the verse was

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considered important. The reasons for importance could vary: it could be that it sets out a concept very clearly, it could be in support of a particular view (i.e. the verse captures the mainstream view), it could be because it offers something unique and so on. These very reasons are valid for a modern scholar as well. Thus, reconstructed versions capture the essence of a text. Thus it is no surprise that P. V. Kane names his reconstruction as *saroddhahara* – the extraction of essence [of *Katyayanasmrti*]. The major features of KatyayanaSmrti compared to other Smrtis are the definitions given by Katyayana, the treatment of Stridhana and judicial procedure – the last being especially important. P. V. Kane opines that "Katyayana represents the high water mark of procedure in Smrti literature".

Of the three reconstructions, P. V. Kane's reconstruction is easily the best on many accounts. P. V. Kane has written the definitive work on the *History of Dharmasastra*; he has reviewed nearly a thousand works on Dharmasastra while working on his *magnum opus;* he was a senior advocate of the Bombay High Court (neither of the other two, who reconstructed a book dealing with judicial procedure and law, practiced law); he has written an extensive introduction dealing with Katyayana and the work; he translated the verses (the others did not); and gave extensive notes to his translations with cross-references to other works of Dharmasastra and modern law and various cases. P. V. Kane's translations and notes make certain points very clear in some instance provide a point of departure for further examination. The difference between Jayapatra and Pascatkara is one example. Kane's organization of the verses is also different, in detail though not in general plan, from that of Bandyopadhyaya; it might be added that Kane's arrangement, given his extensive research in Dharmasastra, is much better and more consistent with other works in Dharmasastra. This is not to say that there is no scope for a different arrangement. For instance, Bandyopadhyaya's arrangement of verses dealing with Sahasa is more consistent with the narrow definition of Sahasa as given by Katyayana whereas Kane interprets Sahasa in a wider sense and includes many other verses under Sahasa, more in line with the other works on Dharmasastra. Whether one agrees with Kane or not, it cannot

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be denied that Kane has built the portal though which one must approach Katyayana, the jurist.

Unfortunately, P.V. Kane's *Katyayanasmrtisaroddhara* has been out of print for long and is not easily available. Given the importance of Katyayana in terms of judicial procedure, and the preference in other works of Dharamasastra for definitions given by Katyayana, it was felt out that *KatyayanaSmrti* as it is available to us, should be reissued. Accordingly, Sanskrit Academy, has taken up the work of reprinting both the works of Narayan Chandra Bandyopadhyaya and P.V. Kane. It is hoped that readers find the book useful and that wider availability of original books would encourage the post-colonial generation of scholars to take a fresh look at the development of law in India. The important feature of this कात्यायनस्मृतिसारोद्धार is the annexure of 121 verses collected by K.V. Rangaswami Aiyangar.

Details of the work, of the time of Katyayana, special features of the work, its relation to other Smrtis etc. are all dealt with in great depth by P.V. Kane in his introduction, which is also being reproduced herewith.

I, on behalf of Sanskrit Academy, Hyderabad extend my profound thanks to

Prof. S. Satyanarayana Garu, the honourable Vice - chancellor of Osmania University and the chairman of Sanskrit Academy, the officials concerned of Osmania University.

The honourable Vice Chancellor, the Registrar and the officials concerned of Rastriya Sanskrit Samsthan, New Delhi, for their encouragement and help to bring out this book successfully.

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Dr. V. Srinivasa Sharma

Director I/C

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PREFACE

While engaged in writing a history of dharmasastra, it occurred to me several years ago that it would be a very useful and interesting thing if I called together from the several nibandhas the quotations from the dharmasutra of Sankha-likhita, that of Harita and the smrti of Katyayana (on vyavahara) and reconstructed these works. The former I published in the Annals of the Bhandarkar Oriental Institute at Poona (vide volumes (VII-VIII) and the latter is now offered here. Katyayana represents the high watermark of smrti literature on judicial procedure and the substantive law of inheritance, contracts & c. In the following pages about one thousand verses of Katyayana on vyavahara will be found collected from about a score of Sanskrit commentaries and digests and presented under appropriate topics. It is further proposed to translate these verses into English, to add explanatory and illustrative notes, to print out the provisions of the modern Indian Statue Law wherever the parallelisms are striking and to indicate the important cases wherein the texts of Katyayana have been relied on Dr. Jolly intended to publish a similar restoration of Katyayana, but did not carry out his intentions. Mr. Narayan Chandra Bandopadhyaya published about 800 verses of Katyayana at Calcutta in 1927. But he left the work incomplete in several respects. He collected passages from five works only, viz. the Dayabhaga, the Vivadaratnakara, the Smrticandrika, the Parasara-Madhaviya and the Viramitrodaya. He did not cast his net over a wide area and so his restoration is not as thorough as could be wished. Besides he did not publish a translation nor did he append explanatory notes. It is my intention to add also an introduction on the age of Katyayana and his importance in the ancient Hindu Law. In my history of Dharmasastra, which will be published in a few weeks, these topics have been dealt with (at pp. 213-221), but I propose to enter into greater details in the introduction to this work. References have been given as to each verse and important readings have been pointed out. I hope that this work on which I have spent much of my time will be found useful and suggestive to all those who are interested in the development of Hindu Law and the study of comparative jurisprudence.

The system of transliteration adopted here is that of the Bhandarkar Oriental Institute. The works consulted, the editions used and the abbreviations employed in the notes to the text are noted below.

P.V. Kane

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BIBLIOGRAPHY AND ABBREVIATIONS

अपरार्क - commentary of Apararka on the Yajnavalkyasmrti (published by the Anandasrama Press, Poona).

कुल्लूक - commentary of कुल्लुक on सनुस्मृति (Nirnayasagara edition).

कृत्यकल्पतरु - Ms of the कृत्यकल्पतरु or कल्पतरु of लक्ष्मीधर on राजधर्म from the India Office collection and a Ms of a fragment of the व्यवहार portion in the Benares Sanskrit College.

टोडरानन्द - Ms in the Deccan College collection (now at the Bhandarkar Institute) of the portion on vyavahara, called Vyavaharasaukhya.

दायतत्त्व of रघुनन्दन (printed by Jivananda).

दायभाग of जीमूतवाहन (Jivananda's edition, 1893).

परा. मा. = पराशरमाधवीय (vol. III) - com. of माधवाचार्य on the पराशरस्मृति (Bombay Sanskrit Series edition).

मद. पा. = मदनपारिजात (ed. in Bibliotheca Indica series, Calcutta).

मिता = मिताक्षरा of विज्ञानेक्ष्वर , a com. on याज्ञवल्क्यस्मृति.

मेधा = भाष्य of मेधातिथि on मनुस्मृति (ed. by Mr. J.R. Gharpure)

राज.र. = राजनीतिरत्नाकर of चण्डेक्ष्वर edited by Mr. K.P. Jayasval, Patna.

वि.चि = विवादचिन्तामणि of वाचस्पतिमिश्र (Calcutta edition of 1837).

वि.र. = विवादरत्नाकर of चण्डेक्ष्वर (published in the Bibliotheca Indica series)

विश्वरूप - com. of विश्वरूप on याज्ञवल्क्यस्मृति (Trivandram Sanskrit series).

वीर - वीरमित्रोदय of मित्रमिश्र (on व्यवहार published by Jivananda and on राजनीति in the Chowkhambha Sanskrit series)

व्यव. त. = व्यवहारतत्व of रघुनन्दन (edited by Jivananda).

व्यव. त. = व्यवहारतत्त्व of रघुनन्दन (edited by Jivananda)

व्य.म. = व्यवहारमयूख of नीलकण्ठ (edited by me for the Govt. Oriental series, Poona, 1926)

व्य.मा. = व्यवहारमातृका of जीमूतवाहन (edited by Sir Asutosh Mukerji in vol. III of the Memoirs of the Asiatic Society of Bengal).

स. वि = सरस्वतीविलास of प्रतापरुद्रदेव (published in the Mysore Govt. Oriental Library series)

स्मृति च = स्मृतिचन्द्रिका of देवण्णभट्ट (published in the Mysore Govt. Oriental Library series).

हरदत्त - हरदत्त's commentaries on गौतमधर्मसूत्र (Anandasrama Press) and आपस्तम्बधर्मसूत्र (Kumbhakonam edition).

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INTRODUCTION

Katyayana occupies a very prominent place among smrti writers on law and procedure. Next to Narada and Brhaspati he is cited on vyavahara more frequently than any other smrtikara in such commentaries and digests as the Mitaksara, the Smrtichandrika, the Viramitrodaya and the Vyavaharamayukha. Katyayana's work on law and procedure must have been of considerable extent. In the present work, over nine hundred quotations from Katyayana have been collected. The smrti of Narada as printed by Dr. Jolly contains 1028 verses while the quotations from Brhaspati collected and translated by the same learned scholar in the Sacred Books of the East series (vol. 33) number 697 verses. Therefore even on a very modest computation the smrti of Katyayana on law and procedure must have contained about fifteen hundred verses, if not more. This conclusion is further strengthened by a comparison of the number of quotations from Katyayana on certain selected topics of law and procedure with the number of verses devoted to the same topics in the work of Yajnavalkya and Narada and in the quotations from Brhaspati.

Topics	Verses in Yaj	Verses in Narada	Verses from Br.	Verses from Kat.
Courts, procedure, plaint, reply and trial	21	136	128	189
Documents	11	12	31	64
Witnesses	16	82	35	72
Ordeals	19	103	33	53
Deposits & c	11	15	15	20
Partnership	7	18	32	14
Resumption of gifts	2	12	11	19
Breach of contract of services	3	43	20	19
Sale by one not the owner	6	8	11	12
Violation of conventions	8	7	24	15
Boundary Disputes	9	43	29	36
Dayabhaga	35	52	101	95
Vakparusya	8	32	15	11
Dandaparusya	18	8	16	16
Prakirnaka	13	55	26	30

The above table will be very instructive from this point of view.

A few observations about the text presented would be quite appropriate here. Owing to oversight a few verses have been repeated (viz. 253 and 267, 477-78, 587-88, 471 and 641, 566 and 654, 486 and 957). In a few cases the

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text of Katyayana is presented in two versions (viz. 61-62, 174-175, 537 - 538, 899-900) by the authorities consulted in reconstructing the text. About a dozen verses are somewhat obscure or difficult of explanation, as we are ignorant of their proper setting or context (eg. vv. 17, 160, 256, 309-10, 491, 541, 700, 851, 932, 971). A few of the verses here presented as Katyayana's are ascribed by some authorities to other smrtikaras. The following tables will illustrate this :

(1 Ascribed to Brhaspati)

Verses	by whom so ascribed	Verses	by whom so ascribed
53-54	Sm. C	* 496	Vir.
* 83	Vir.	500	Sm. C
* 141-142	Apar. and Sm. C	536	Par. M and V.M.
* 152	Par. M.	* 539	Vir.
154 - 155	Par. M	550	Sm. C., Par M., V.R.
167	Vy. Mat.	568	V.R.
170	Par. M	621-623	Apar.
* 171	Vir.	626 - 630	V.R.
206	(first half line) Vir.	636	Apar, V.R.
208	Vy. Mat.	692	V.C. and V.R.
279	Par. M.	695	V.R and V.C.
282	Par. M.	757	Apar and Par. M
291-93	Apar.	* 822 A	Grhastharatnakara
329	Par. M	832-833	Sm.C
378	Apar., V.M., Vir.	889 - 91	Sm. C
* 439	Saras	963	Par. M.

(2 Ascribed to Narada)

Verses	by whom so ascribed	Verses	by whom so ascribed
27	Sm. C	774	Sm. C
159	Vy. Mat	811	Mit; Par M
331 - 32	Sm. C	820	V.R.
333 - 334	Sm. C		

1. It will be noticed from the notes attached to the text and the English notes that the verses marked with an asterisk are ascribed to both Brhaspati and Katyayana even in some of the earlist digests and commentators like Visvarupa and the Vyavaharamatrika.

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(3 Ascribed to Manu)

Verses	by whom so ascribed	Verses	by whom so ascribed
82	Vy. Mat.	619	Mit
605[2]	Vir.	746	Vir.

(4 Ascribed to Vyasa)

Verses	by whom so ascribed	Verses	by whom so ascribed
103	Sm. C	595	Vir.
105	Sm. C	597[3]	Par. M
216	Sm.C., Vir.	693-95	Par. M
242	Vir.	854	D.B.
382 - 384	V.M.		

Besides these, verses 908-909 and 916 are ascribed to Devala by the Vyavaharamayukha, verses 425 - 426 are ascibed to Pitamaha by the Viramitrodaya and verses 485 - 86 to the same author by the Parasaramadhaviya, verses 402 - 403 are ascribed to Prajapati by the Parasaramadhaviya, verses 394 - 5 are ascribed to Vasistha by the Smrticandrika and several other digests and verse 404 to the same author by the Smriticandrika, verses 418-419 are ascibed to Vrddha - Manu by the Sarasvativilasa, verse 659 to the same by the Viramitrodaya and verses 818-19 to the same the by Vivadaratnakara.

Several verses quoted as Katyayana's in the digests occur in the printed Narada. The following are such verses : 73[4], 82[5], 91[6], 129, 169, 249, 289, 305, 321, 345, 356 - 357, 400 - 401, 437, 451, 455, 493 - 494, 553, 569-70, 625, 693-94, 696, 698 - 99, 714, 730-31, 765-66, 769, 893, 939. The corresponding verses of Narada are indicated in the notes to the Narada are indicated in the notes to the translation. A dozen verses attributed to Katyayana

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1. Verses 159 and 820 are ascribed to both Narada and Kat, by some writers.

2. Verse 605 is ascribed to both Kat and Manu and is not found in Manu.

3. Verse 597 is ascribed to both Vyasa and Kat. by Vir.

4. This is also found in Manu.

5. 82 is ascribed to both Manu and Kat. by the Vy. Mat.

6. 91, 356 - 57 are ascribed to both Nar and Kat. by the Mat. and 129 to both of them by the Todarananda.

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are found in Manu[1]. Besides verses 83 and 884 A occur in the Kautilya Arthsastra and verses 326 and 327 are the same as Visnu V. 186-187 and verses 463 and 716 (first-half) are the same as Yajnavalkya II. 113 and 183 (latter half).

It is impossible to hold that verses of other authors were in all such cases ascribed to Katyayana owing to lapses of memory on the part of the authors of digests or to the careless copying of manuscripts. The fact that such early writers as Visvarupa and Jimutavahana ascribe several verses to two authors should rather induce us to hold that some verses were borrowed by Katyayana, Brhaspati and others from still earlier works which are now lost or that Katyayana bodily took some verses from his prodecessors and incorporated them in this work.

The predecessors of Katyayana

The authors and schools expressly named by Katyayana are : Bhrgu, Brhaspati, Gargiyas (v. 649), Gautamas[2] (v. 823), Kausika (v. 825) Likhita (v. 910), Manavas (vv. 649, 823), Manu (vv. 432, 573, 792). It is to be noted that in v. 519 Katyayana himself is mentioned. It is possible that instead of saying 'that is my view', he uses the less emphatic and more modest method of giving his own views. One remarkable fact is that the views ascribed to Manu and the Manavas are not found in the extant Manusmrti. On the contrary the view of the extant Manu is opposed to that of the Manavas indicated in v. 823. It is possible that the reading 'pravasanam' (in v. 823) is wrong and we have to read in its place 'pramapanam'.In that case only that verse referring to the views of the Manavas will agree with Manu 9270. The view ascribed to the Gargiyas and Manavas about taking bribes (v. 649) is not the same as that contained in Manu 9.231. Brhaspati is expressly mentioned in the following verses, viz., 152, 170[3], 346, 474, 537, 664, 682, 718, 871, 874, 884. As the smrti of Brhaspati has not yet been recovered and as we have only the quotations from Brhaspati contained in the Digests it is not possible to say whether all the views attributed to Brhaspati were really held by him. Verse 152 is attributed to Brhaspati by the Par. M. and to both Brhaspati and Katyayana by the Viramitrodaya. We find that the views attributed to Brhaspat in v. 884 were held by him as is clear from the six verses quoted by Apararka (p. 726) from Brhaspati on Yaj. II. 119).

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1. 342 - 243 = M 8. 79 - 80, 344 = M, 8.87, 351 = M, 868, 393 = M, 8.78, 534 = M, 8.158, 655 = M, 8.165 722 = M, 782 = M.8. 286, 793 = M, 8.285, 894 = M. 9.194

2. The Gautama-dharmasutra contains no such rule. The subject of theft is treated of in Gautama XII. 14.

3. This verse is variously read, Vir reading it as 'Bhrgurabraid' and Todarananda as 'Manur abravid' instead of 'Gururabravid'.

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That Katyayana lookped upon Brhaspati as a model and as an author whose dicta were entitled to respect follows from several verses of Katyayana. Verses 29 and 30 show that Katyayana had before him the division of the 18 titles of law into 'dhanamula' (civil) and 'himsamula' (criminal) made by Brhaspati. Similarly the discussion about decision by dharma, vyavahara, caritra and rajasasana (in verses 35-51) is an elaboration of Brhaspati's teaching on this subject. Verses 284 (about three kinds of documents), 477-78 (about the modes of recovering a debt), 470 (which employs the very word nisrstartha used by Brhaspati), 497 - 500 (about several kinds of interest), 564 - 565 (about the duty of the son as regards the liability of the father incurred through lust or wrath), 644-645 (about the kinds of valid gifts) presuppose a knowledge of Brhaspati's text.

The references to Bhrgu's views are many and create some difficult problems. It is generally held that references to Bhrgu in the smrtis and digests are intended for the extant Manusmrti (which is Bhrgu's version thereof). Even so early a writer as Brhaspati says[1] Bhrgu spoke of sale without ownership after deposit; listen to it attentively; I shall speak of it in greater detail'. This clearly refers to Manu 8.4 where sale by on not the owner' immediately follows 'deposit'. Brhaspati elsewhere refers to the extant Manusmrti not as Bhrgu's work but as Manu's[2], e.g 'Manu has spoken of quantities (units of weight etc.) beginning from the mote in the sunbeam to the Karsapana' (this is an obvious reference to Manu 8. 132-136) and 'Manu forbade gambling as it destroys truth, purity and wealth' (this refers to Manu 9. 221, 224). Katyayana therefore must be regarded as referring to the work of Manu wherever he speaks of Bhrgu. But verses 231, 395, 413, 478, 555, 715, 781, 842[3] wherein the views of Bhrgu are referred to have nothing corrosponding to them in the extant Manusmrti, while the views of Bhrgu in verses 482, 545, 672, 801, 872, 884 A, 886, 900 correspond more or less with the views of Manusmrti. Kulluka on Manu VIII. 350 quotes Katyayana's verse (801) and expressly says 'from the mention of the word Bhrgu in this verse it is clear that Katyayana explains the verse declared by Manu'. Therefore the explanation of the fact that some views ascribed to Bhugu are not, found in the

---

1. निक्षेपानन्तरं प्रोक्तो भृगुणास्वामिविक्रयः । श्रूयतां तं प्रयत्नेन सविशेषं ब्रवीम्यहम् ।। from the विवादरत्नाकर p. 100.

2. संख्या रशिमरजामूलो मनुना समुदाहृता । कार्षापणान्ता सा दिव्ये नियोज्या विनये तथा ।। quoted by अपरार्क on याज्ञ II. 99

3. In v. 842 it is probable that the proper reading is गूढेऽब्रवीद्गुरुः and not; द्भृगुः, since as pointed out in the notes to the translation, Brhaspati has a verse which is almost the same as this.

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extent Manusmrti lies in this that either Katyayana had a text of Manu largely differing from our extant Manu or that he had another smrti of Bhrgu before him which has not come down to us or that instead of 'Bhrgu' in those verses we have to read 'Guruh' (i.e Brhaspati).

That Katyayana nowhere expressly mentions Narada or Kautilya is a matter for great surprise, specially when he mentions Brigu and Brhaspati a dozen times or more. No reason can be assigned for this omission. But from several circumstances it is clear that he knew the smrti of Narada, and used it and elaborated it. To take only a few examples. Narada (p. 7 vv. 10-11) states that dharma, vyavahara, caritra and royal edict are the four feet (padas) of vyavahara and briefly describes in what their essence consists, while Katyayana in verses 35-51 elaborately defines these four and dwells at length upon their conflicts and interactions. In verse 202 Katyayana prescribes the fines for five kinds of hinavadis, which are enumerated by him in the same order in which they occur in Narada (S.B.E. vol. 33 p. 31 v. 33). In a very long list about persons incompetent to be witnesses Narada (pp. 86-89 vv. 177-187) mentions 'sanabhi' (180) and 'rajapurusa' (v. 185). These two are defined by Katyayana in vv. 362 and 364 respectively. Narada (p. 24 v. 1) says that a plaintiff comes to court after considering the strength of his own case and after resolving to prosecute his cause and so should write down the plaint at once. Katyayana, according to the Vyavaharamatrka, explains in verse 134 the force of two adjectives in that verse of Narada. Narada (p. 129 v. 8) enumerates seven kinds of gifts, two of which are 'bhrtih' and 'pratyupakaratah'. In vv. 644-645 Katyayana explains at length what is meant by these two terms. Brhaspati also mentions the seven kinds of gifts of which birti[1] is one. But Katyayana uses the very word 'pratyupakaratah' that occurs in Narada while the corresponding word in Brhaspati is 'upakarine'. Narada enumerates (pp. 135-136 vv. 26-28) fifteen kinds of slaves, two of which are 'pravrajyavasita' and 'anakala-bhrta'. Both of these are mentioned in the same words by Katyayana in verse 731 the latter half of which is the same as Narada (p. 136 v. 31 first half). These examples leave no room for doubt that Katyayana had before him the work of Narada and tried to elucidate and elaborate the laconic treatment of law in it.

Another important problem is to consider the relation of Kautilya and Katyayana. In the notes to the translation of the verses 466, 620, 755, 943-845, 857, 861, 902, 921 it has been shown how closely Katyayana agrees with Kautilya, in some cases the very words of Kautilya in prose occurring in the garb of verse in Katyayana. Two verses, as shown above, are common to both. Considering

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1. भृतिस्तुष्ट्या पण्यमूल्यं स्त्रीशुल्कमुपकारिणे । श्रद्धानुग्रहसंप्रीत्या दत्तं सप्तविधं विदुः ॥
quoted in Vi.r p. 398.

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how advanced general jurisprudence, rules of procedure and substantive law are in Katyayana there can be no doubt that Katyayana is later by several centuries than Kautilya. Therefore if there is a borrowing it must be Katyayana who borrows. It is not unlikely that both may have borrowed, particularly the two verses that are common to both, from still earlier sources.

Characteristics and special doctrines of Katyayana

(1) Katyayana represents the high watermark of smrti rules about procedure. In some respects he goes even beyond Narada and Brhaspati and is more stringent and eleborate than those two writers. For example, in verse 221 he prepounds a rule similar to the rule of constructive resjudicata.

(2) He has a great penchant for distinctions and gives numerous definitions, such as those of vyavahara, pradvivaka, stobhaka, tirita, anusista, samanta, maula, vrddha & c.

(3) He coins several new terms. He makes a distinction between jayapatra and pascatkara (vv. 259 - 265) while all other writers employ the word jayapatra for all judgements (whether delivered after a contest or exparte). Kautilya no doubt used the word 'pascatkara' but it is used in a different sense[1]. He separately defines (vv. 876, 878) wealth obtained by 'saurya' and 'dhvajahrta', while Narada and Brhaspati includes both under 'sauryadhana'. Similarly he makes a distinction between 'kanyagata' and 'vaivahika' (vv. 879 - 880), while Narada (p. 190 v. 6) and Brhaspati (p. 381 v. 78) include both under 'bharyadhana'.

(4) He gives a more eleborate treatment of 'vidyadhana' (vv. 867 - 873) than is contained in any other smrtikara.

(5) He devotes atleast 27 verses to Stridhana and his treatment of that topic has attained classical rank. Narada devotes only two verses (dayabhaga verses 8-9) to that topic, Yajnavalkya only six and the quotations from Brhaspati on this topic are not many.

(6) Katyayana (v. 530) speaks of five kinds of sureties, while Narada knows only three and Yajnavalkya and Brhaspati only four.

(7) In verses 16-17 he allows only a limited (and not absolute) ownership to the king over all land.

(8) The court consisted of the judge, the sabhyas, brahmanas, merchants (vv. 57-59).

(9) Champerty and maintenance were not conuntenanced (vv. 89-90).

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1. घाताभियोगमप्रतिब्रुवतस्तदहरेव पश्चात्कारः । If a man (defendant or accused) does not reply to a charge of injury (or assault) then he is defeated (or punished) that very day.

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(10) The employment of recognised agents and pleaders was permitted (vv. 91-92). Narada (p. 29 vv. 22-23) has similar provisions.

(11) Katyayana holds, differing from Vasistha, Yajnavalkya and other sages, that a man has no ownership over his wife or son and cannot sell his son (v. 471).

(12) Katyayana allowed the pledge of an article without possession (vv. 517-518).

(13) Katyayana (v. 857) allows one-fourth to a son who is not aurasa, when an aurasa son is born to the father, provided the former is of the same caste. In Manu and Yajnavalkya no such proviso is added.

(14) Katyayana permits the practice of niyoga following ancient writers like Gautama, Vasistha, Yaj. and Narada, though it was condemmed by Manu (p. 64-66) and Brhaspati (p. 369 vv. 12-13).

The date of Katyayana

The foregoing discussion has established that Katyayana is later than Kautilya, Yajnavalkya, Narada and Brhaspati. In this treatment of ordeals he is less elaborate than Pitamaha. Pitamaha quotes Brhaspati[1]. So Katyayana is later than Brhaspati and earlier than Pitamaha. The external evidence will enable us to arrive at a more precise date. Katyayana is profusely quoted by the Mitaksara, Apararka and other writers of the 11th and 12th centuries as a smrtikara of equal authority with Yajnavalkya, Narada and Brhaspati. In their opinion therefore he was an ancient author. In the Valipattana plate of the Silahara king Rattaraja dated sake 932 (010 - 11 A.D.) one verse of Katyayana (296) about the requisites of a valid royal edict is quoted as a smrti'[2]. Medhatithi on Manu (VII. 1) ascribes to Katyayana the rule that in case of conflict between the dictates of dharmasatra and of arthasastra, the king should prefer the former (v. 20). Medhatithi on Manu VIII. 216 speaks of a Katyayanasutra[3]. Whether he refers to another work of Katyayana in prose or whether Katyayana's smrti on vyavahara included prose passages also, or whether Medhatithi only gives in prose the purport of a verse of Katyayana similar in principle to v. 657 it is difficult to say. The second alternative is almost improbable, as no other commentator or digest has quoted a single prose passage on vyavahara from Katyayana. In favour of the first alternative, it may be urged that Katyayana is enumerated as one of the

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1. ग्रामगोष्ठीपुरश्रेणीसार्थसेनानिवसिनाम्। व्यवहारश्चरित्रेण निर्णेतव्यो बृहस्पतिः ॥ quoted in स्मृतिचंद्रिका III. p. 58. Vide Br. p. 287 v. 28.

2. Vide 'Indian Historical Quarterly' for 1928 p. 218.

3. 'यो वाम्यः कस्यचित्कर्मणि धनमाबध्य अर्धतो निवतेतेति कात्यायानीये सूत्रे धनमा मध्य आसज्य धनव्ययं कारयित्वा यदि अर्धकृते निवर्तेत सोपि तद्धहेदित्यनुषङ्गः'।

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expounders of Dharma in Sankha - Likhita, Yajnavalkya (I. 4-5) and Parasara. As the quotations from Katyayana represent a stage of jurisprudence later than the extant Yajnavalkya, the reference to Katyayana in Yajnavalkya must be to some earlier work of another Katyayana or the verses about the expounders of dharma in Yajnavalkya must be a later addition. As Medhatithi knew a verse of Katyayana which is quoted by the Mit. and other digesta there can be little doubt that Medhatithi asleast knew a work in verse of Katyayana. Therefore it appears that the third alternative referred to above is more probable than the other two. Medhatithi flourished between 825-900 A.D. (vide my 'History of dharmasastra' Vol. I. p. 275). Visvarupa (on Yaj) quotes eleven verses of Katyayana (124, 125, 126, 130, 136, 139, 140, 141, 541, 806, 828). Visvarupa flourished in the first half of the 9th century (vide History of dharmasastra p. 263). Visvarupa looked upon Katyayana as a great smrti writer like Yaj., Narada and Brhaspati. This position he could not have attained in a century or two. Hence Katyayana cannot be placed later than 600 A.D. As Katyayana is later than Yajnavalkya, Narada and Brhaspati he could not have flourished before the 3rd or 4th century A.D. Therefore the smrti fo Katyayana must be placed between 300 to 600 A.D.

There is a work called Karmapradipa and acarya, sraddha and other topics (excluding vyavahara) ascribed to Katyayana. Vide History of dharmasastra, Vol.I. pp. 218-221 for a discussion as to its authorship and other matters.

Katyayana and Western Jurisprudence

Katyayana represents the last stage of the development of law and procedure in the smrtis. He comes almost at the end of the period of about a thousand years during which from scanty and scattered beginnings in the earliest Dharmasutras, principles of an indigenous system of jurisprudence were slowly evolved and matured. It would be unfair to institute a comparison between Katyayana and modern jurisprudence of this or the last century. Even so, some of his rules such as those about the contents and characteristics of good plaints and written statements, about the evidence of witnesses and about documents, about constructive res judicata are startling in their modernity. A study of the verses indicated in the Index where there is a close correspondence between the dicta of Katyayana and modern Anglo-Indian Codes (such as the Civil Procedure Code, the Contract Act, the Evidence Act, the Limitation Act, the Transfer of Property Act) will amply corroborate this statement. In order to appreciate the intrinsic merits of ancient Indian Jurisprudence as represented by Katyayana, the proper course would be to compare it with the most developed system of ancient Jurisprudence in the West, viz., the Roman. Katyayana probably flourished as shown above about the same time as Justinian (483 - 565 A.D.) or perhaps a century or two earlier. In the following an attempt will be made to compare a few

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of the dicta of Katyayana with the Institutes of Justinian, the great Roman legislator and it is hoped that it will be found that both present a striking similarity on many points (particularly in the law of contracts) and that, where they differ, good sense, equity and logic do not often lie with the Roman legislate.

Under the old Roman Law of the Twelve Tables the father's power over his children included the power of sale or even putting to death. Even Justinian says (Lib. I. Tit. IX. 2) - 'Our children begotten in lawful wedlock are in our power. The power which we have over our children is peculiar to the citizens of Rome; for no other people have a power over their children such as we have over our own'. Ancient Dharmasutras like that of Vasistha (15.2) held that parents had the power to sell, gift away or abandon their children. But later smrti writers curtailed this power. Yajnavalkya (II. 175) and Narada (p. 128 v. 4) both forbade the gift of a son, while Katyayana (v. 471) says that the father can only control his son, but he has no power to sell or gift away his son. Katyayana no doubt says (v. 639) that according to the sastras in times of adversity a son may be sold or given away. But this latter does not appear to be his own view, but is rather the view that he finds ancient texts advocated. Similarly according to ancient Roman Law all that children acquired was for the benefit of their parents, but Justinian (Lib. II. Tit. IX. I) made a change viz., that all that children acquired by the help of the fortunes of the father belonged entirely to the father, but in all else the father was to have the usufruct while the son was to retain the ownership. According to Manu (VIII. 416) whatever was acquired by the son belonged to the father. But this rule was modefied by Yajnavalkya (II. 118-119) and others who said that whatever was acquired without detriment to the father's estate became exclusively the son's and the father or other co-parceners had no right over it. Katyayana elaborately defines and illustrates self-acquisition (866 - 873). In one verse (851) Katyayana appears to give two shares to the father when the property was acquired by the son without detriment to the father's estate and half the property when it was acquired with the help of the father's property. The views of Yajnavalkya and Katyayana are much in advance of Justinian and more favourable to the acquirer. Even when wealth was acquired with the help of the father's estate Vasistha (17.57) gave two shares to the acquirer.

The rules of Hindu law were therefore more equitable to the acquirer than the rule of Justinian.

According to ancient Roman Law if any one had received bonafide by purchase, gift or other legal means a thing from a person who was not the owner, he became the owner by one year's use in the case of moveables and by two years' use in the case of immoveable property situated in solum Italicum. Justinian (Lib. II. Tit. VI) altered these unreasonably short periods and prescribed that moveables should be acquired by user for three years and immoveable property

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by the 'possession of long time' i.e. for ten years for persons present and twenty years for persons about, wherever the property might be situated. Ancient jurisprudence showed more concern for rights of ownership in property. Ancient writers like Manu (VIII. 147) and Gautama (XII. 34) held that if a chattel were enjoyed for ten years before the eyes of the owner by another without protest, the ownership was lost. Yajnavalkya (II. 24) appears to have prescribed 20 years in the case of immoveable property and ten years in the case of moveables for loss of ownership by adverse possession. Narada (p. 62 v. 89 and p. 63 v. 91) prescribed that possession within living memory cannot confer ownership if unaccompanied by title but when it has been enjoyed for three generations and thus passes beyond living memory it becomes independent proof of ownership. But there was divergence about what was meant by 'living memory' or 'three generations'. Brhaspati (p. 313 vv. 23 24) says that a generation means a period of 30 years; so three generations would come to about 90 or 100 years and this is the period of living memory according to the Mitaksara on Yajnavalkya (II.27). Vyasa followed a middle course and cut down the period of living memory to sixty years and Katyayana (v. 318) does the same. Considering the natural inclination of most strong men to seize the property of the weak and the unsettled state of country in those times owing to wars and foreign invasions the period prescribed by Katyayana is not unreasonable. It may be noted that till the passing of the Prescription Act (2 and 3 William IV Chapter 71) English law clung to the singular rule that the expression 'Time immemorial' included and denoted the whole period of time from the reign of king Richard I (1189 A.D.) and that the Prescription Act prescribed a period of sixty years for making a right by enjoyment absolute and indefeasible.

Justinian (Lib. II. Tit. VI. I, 9) prescribed that possession however long would not confer ownership in the case of free persons, sacred or religious things, fugitive slaves and things that belong to the state fiscus. A similar rule is given by Katyayana (v. 330).

According to Justinian (Lib. III. Tit. XIV. 2-3) he who receives a thing but for his use (oommodatum) is bound to employ his utmost diligence in keeping and preserving it and it would not be sufficient for him to show that he had taken the same care of it which he was accustomed to take of his own property. But a person with whom a thing is deposited (depositum) was only answerable if he was guilty of fraud and not for a fault such as carelessness or negligence. Katyayana on the other hand places all kinds of bailment on the same footing (v. 592) and prescribes for all bailments the rule that the bailee would not be liable if he takes as much care of the thing bailed as he takes of his own property (v. 594, 598). That the rule of Katyayana is more reasonable will be clear to any one and the Indian Contract Act (sections 151-152) requires the same amount of care from every bailee as Katyayan does.

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Slavery was recognised by Indian Jurisprudence as well as by Justinian. Manumission of slaves was effected according to Justinian (Lib. I. Tit. V. I) in various more or less complicated ways; but according to ancient Indian writers a very simple procedure was prescribed (vide Narada p. 138 vv. 42-43). Justinian (Lib. I. Tit. VIII. I) says 'slaves are in the power of masters, a power derived from the law of nations; for among all nations it may be remarked that masters have the power of life and death over their slaves and that everything acquired by the slave is acquired for the master'. He further on provides that he who without reason killed his slave is to be punished equally with one who has killed the slave of another and that if masters too harshly treated their slaves (short of death) the slaves were to be ordered by the Magistrate to be sold. The ancient Indian texts never gave the power of life and death over slaves to their masters. On the contrary Manu said (VIII. 299 - 300) that a master could not inflict more punishment on his slave than he could conflict on his own son and that punishment was to be administered only on his own son and that punishment was to be administered only on the back (and never on the head) with a rope or a small bamboo stick, Manu (IV. 180) enjoined on a man not to quarrel with his parents' children, wife and slaves and laid down that, as a slave was like one's shadow and as the daughter was the highest object of tenderness, one must not even when offended by them show resentment (IV. 185) Manu (VIII. 416) no doubt prescribed that what a slave acquired belonged to the master. Katyayana however (v. 724) appears to have held that what the slave got through the favour of his master did not belong to the master. Katyayana further provided a remarkable rule (v. 729) viz. that a master was to be fined two hundred panas if being well-off he desired to sell a female slave who was devoted to him and who wept over the proposed seperation. These and other provisions show that the ancient Hindu Law as to slaves was decidedly more humane than the Roman Law.

Justinian (Lib. III. Tit. XXIII) says 'If earnest has been given, then whether the contract was written or unwritten, the purchaser, if he refuses to fulfil it, loses what he has given as earnest and the seller if he refuses has to restore double. This very rule occurs in Katyayana (v. 541).

Katyayana was the greatest ancient Indian champion of the rights of women to their property. He defines at great length what is woman's peculiar property. He prescribed that over women's wealth of the type called saudayika (v. 901) she had absolute power of disposal, even as regards immoveable property (vv. 905-906). Not even the husband nor her son had any power over her peculiar wealth and Katyayana went so far as to say that the husband and others, if they deprived her of such wealth, were liable to be fined (vv. 912, 915). Comparing these provisions with Justinian's (Lib. II Tit. VII. 3, Lib. II. Tit. VIII, Lib. IV. Tit. VI. 37) it appears that the position of the wife as regards property was better

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under Hindu Law that under Justinian. The position of the wife under the English Common Law was that of utter legal subjection. By that law, as the husband and wife were regarded as one person, the wife was incapable, with some insignificant exceptions, of acquiring or enjoying any property, real or personal, independently of her husband. This continued till so late as 1882, when the Married Women's Property Act (45 and 46 Vict. Chapter 75) was passed. Even after that Act, the old law continues as regards marriages celebrated before Ist January 1883.

It is beyond the scope of this Introduction to compare and contrast exhaustively the rules of Katyayana and the Institutes of Justinian. Enough has already been stated to show that a comparison between the two would be far from unfavourable to the Indian sage. The only point of importance in which Justinian can be claimed to have gone much beyond the Indian sage is in the law of wills. Owing to the universal prevalence of the joint family system in India and the practice of adoption, the law of wills was not developed in ancient India. Katyayana however made a very near approach to wills when he provided that, if a gift was promised by a man for a religious purpose whether in good health or when suffering from a disease, or when a man promised a gift to a brahmana, the son or other heir was to be made to deliver or pay the promised gift even after the death of the promisor (vv. 566, 642).

It is gratifying to see that human reason, whether in the East or in the West, reaches fundamentally identical solutions of practical problems, when untrammelled by the dead weight of scriptual authority or when not dwarfed by alien domination.

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अतोन्येषु सभा	435	अध्यावहनिकं	896	अन्तर्वेश्मनि	367
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कात्यायनस्मृतिसारोद्धारः

१ (राजगुणाः) १-३

विनीतः शास्त्रसंपन्नः कोशशौर्यसमन्वितः।
ब्रह्मण्यो दानशीलः स्यात्सत्यधर्मपरो नृपः।।१।।

स्तम्भोपतापपैशुन्यचापलक्रोधवर्जितः।
प्रगल्भः सन्नतोदग्रः सम्भाषी प्रियदर्शनः।।२।।

वश्येन्द्रियं जितात्मानं धृतदण्डं विकारिषु।
परीक्ष्यकारिणं धीरमत्यन्तं श्रीर्निषेवते।।३।।

२ (राजधर्माः) ४.२४

शौर्यविद्यार्थबाहुल्यात्प्रभुत्वाच्च विशेषतः।
सदा चित्तं नरेन्द्राणां मोहमायाति कारणात्।।४।।

तस्माच्चित्तं प्रबोद्धव्यं राजधर्मे सदा द्विजैः।
पवित्रं परमं पुण्यं स्मृतिवाक्यं न लङ्घयेत्।।५।।

वेदध्वनिप्रभावेण देवाः स्वर्गनिवासिनः।
तेपि तत्र प्रमोदन्ते तृप्तास्तु द्विजपूजनात्।।६।।

तस्माद्यत्नेन कर्तव्या द्विजपूजा सदा नृपैः।
तेन भूयोऽपि शक्रत्वं नरेन्द्रत्वं पुनः पुनः।।७।।

सुराध्यक्षश्च्युतः स्वर्गान्नृपरूपेण तिष्ठति।
कर्तव्यं तेन तन्नित्यं येन तत्त्वं समाप्नुयात्।।८।।

आत्मीये संस्थिता धर्मे नृपाः शक्रत्वमाप्नुयुः।
अवीचिवासिनो ये तु व्यपेताचारिणः सदा।।९।।

गच्छेत्सम्यगविज्ञाय वशं क्रोधस्य यो नृपः।
वसेत्स नरके घोरे कल्पार्धं तु न संशयः।।१०

1-3 कृत्यकल्पतरु, वीर. (राजनीतिप्रकाश) pp.120-121.
4-5 वीर. (राज) p.136, कृत्यकल्पतरु.
6-8 कृत्यकल्पतरु, वीर. (राज) p.139.
9 कृत्यकल्पतरु, वीर. (राज) p.145.
10 कृत्यकल्पतरु.

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एतैरेव गुणैर्युक्तममात्यं कार्यचिन्तकम्।
ब्राह्मणं तु प्रकुर्वीत नृपभक्तं कुलोद्वहम्।।११।।
मन्त्रिणो यत्र सभ्याश्च वैद्याश्च प्रियवादिनः।
राज्याद्धर्मात्सुखात्तत्र क्षिप्रं हीयेत पार्थिवः।।१२।।
न तस्य वचने कोपमेतेषां तु प्रवर्तयेत्।
यस्मादेतैः सदा वाच्यं न्याय्यं सुपरिनिष्ठितम्।।१३।।
यत्र कर्माणि नृपतिः स्वयं पश्यति धर्मतः।
तत्र साधुसमाचारा निवसेयुः सुखं प्रजाः।।१४
प्रजानां रक्षणं नित्यं कण्टकानां च शोधनम्।
द्विजानां पूजनं चैव एतदर्थं कृतो नृपः।।१५।।
भूस्वामी तु स्मृतो राजा नान्यद्रव्यस्य सर्वदा।
तत्फलस्य हि षड्भागं प्राप्नुयान्नान्यथैव तु।।१६।।
भूतानां तन्निवासित्वात्स्वामित्वं तेन कीर्तितम्।
तत्क्रिया बलिषड्भागं शुभाशुभनिमित्तजम्।।१७।।
एवं प्रवर्तते यस्तु लोभं त्यक्त्वा नराधिपः।
तस्य पुत्राः प्रजायन्ते राष्ट्रं कोशश्च वर्धते।।१८।।
अन्यायेन हि यो राष्ट्रात् करं दण्डं च पार्थिवः।
सस्यभागं च शुल्कं चाप्याददीत स पापभाक्।।१९।।
अर्थशास्त्रोक्तमुत्सृज्य धर्मशास्त्रोक्तमाव्रजेत्।।२०।।
दुष्टस्यापि नरेन्द्रस्य तद्राष्ट्रं न विनाशयेत्।
न प्रजानुमतो यस्मादन्यायेषु प्रवर्तते।।२१।।
अक्लेशेनार्थिने यस्तु राजा सम्यङ् निवेदयेत्।
तत्तारयत्यनन्तं स्याद्धर्मार्थं दानमीदृशम्।।२२।।
न्यायेनाक्रम्य यल्लब्धं रिपुं निर्जित्य पार्थिवैः।
तच्छुद्धं तत्प्रदेयं तन्नान्यथोपहृतं क्वचित्।।२३।।

11-13 कृत्यकल्पतरु, वीर. (राज) p.178.
14-15 कृत्यकल्पतरु, वीर. (राज) p.254.
16-17 कृत्यकल्पतरु, वीर. (राज) p.271.
18-19 वीर. (राज) p.276, कृत्यकल्पतरु.
20 मेधा. on मनु. 7.1.
21 वीर. (राज) p.411, कृत्यकल्पतरु.
22-23 कृत्यकल्पतरु.

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राजा पुरोहितं कुर्यादुदितं ब्राह्मणं हितम्।
कृताध्ययनसंपन्नमलुब्धं सत्यवादिनम्।।२४।।

३ (व्यवहारलक्षणादि) २५-३४

प्रयत्नसाध्ये विच्छिन्ने धर्माख्ये न्यायविस्तरे।
साध्यमूलस्तु यो वादो व्यवहारः स उच्यते।।२५।।

विनानार्थेऽव संदेहे हरणं हार उच्यते।
नानासंदेहहरणाद् व्यवहार इति स्मृतः।।२६।।

न राजा तु वशित्वेन धनलोभेन वा पुनः।
स्वयं कार्याणि कुर्वीत नराणामविवादिनाम्।।२७

उत्पादयति यो हिंसां देयं वा न प्रयच्छति।
याचमानाय दौःशील्यादाकृष्योऽसौ नृपाज्ञया।।२८।।

द्विपदे साध्यभेदात्तु पदाष्टादशतां गते।
अष्टादश क्रियाभेदाद्भिन्नान्यष्टसहस्रशः।।२९।।

साध्यवादस्य मूलं स्याद्वादिना यन्निवेदितम्।
देयाप्रदानं हिंसा चेत्युत्थानद्वयमुच्यते।।३०।।

पूर्वपक्षश्चोत्तरं च प्रत्याकलितमेव च।
क्रियापादश्च तेनायं चतुष्पात्समुदाहृतः।।३१।।

धर्मशास्त्रार्थशास्त्रे तु स्कन्धद्वयमुदाहृतम्।
जयश्चैवावसायश्च द्वे फले समुदाहृते।।३२।।

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24 स.वि. p.20
25 अपरार्क p.596 स्मृतिच.III p.1, वीर. p.5, परा.मा. III. p.6.
26 व्य.मा. p.283 परा.मा.III p.7, कुल्लूक on मनु.8.1, व्य.मा.reads स्थितिः for स्मृतः,
27 व्य.मा. p.285 टोडरानन्द, कुल्लूक on मनु.8.4.3, व्य.मा.reads न वागमविवादिनाम् for नराणामविवादिनाम्.
28 व्य.मा. p.285 अपरार्क p.605
29 स्मृतिच. III p.3 (latter half only), परा.मा. III.p.20, (reads भिन्नान्यथ सहस्त्रधा).
30 स्मृतिच. III p.27.
31 अपरार्क p.616, वीर.p.59, स्मृतिच.III p.27.
32 स्मृतिच.III p.27.

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शास्त्रेण निन्दितं त्वर्थमुख्यो राज्ञा प्रचोदितः।
आवेदयति यः पूर्वं स्तोभकः स उदाहृतः।।३३

नृपेणैव नियुक्तो यः परदोषमवेक्षितुम्।
नृपस्य सूचयेज्ज्ञात्वा सूचकः स उदाहृतः।।३४

४ (धर्मव्यवहारचरित्रराजशासनादीनां बलाबलविचारः) ३५-५१

दोषकारी तु कर्तृत्वं धनस्वामी स्वकं धनम्।
विवादे प्राप्नुयाद्यत्र धर्मेणैव स निर्णयः।।३५

स्मृतिशास्त्रं तु यत्किंचित्प्रथितं धर्मसाधकैः।
कार्याणां निर्णयार्थे तु व्यवहारः स्मृतो हि सः।।३६

यद्यदाचर्यते येन धर्म्यं वाधर्म्यमेव वा।
देशस्याचरणान्नित्यं चरित्रं तत्प्रकीर्तितम्।।३७

न्यायशास्त्राविरोधेन देशदृष्टेस्तथैव च।
यं धर्मं स्थापयेद्राजा न्याय्यं तद्राजशासनम्।।३८

युक्तियुक्तं तु कार्यं स्याद् दिव्यं यत्र विवर्जितम्।
धर्मस्तु व्यवहारेण बाध्यते तत्र नान्यथा।।३९

प्रतिलोमप्रसूतेषु तथा दुर्गनिवासिषु।
विरुद्धं नियतं प्राहुस्तं धर्मं न विचालयेत्।।४०

निर्णयं तु यदा कुर्यात्तेन धर्मेण पार्थिवः।
व्यवहारश्चारित्रेण तदा तेनैव बाध्यते।।४१

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33 स्मृतिच.III.65 परा.मा.III 45, वीर. p.51, परा.मा.reads त्वर्थं मुख्यश्चार्थः and वीर. reads यत्पूर्व, स्मृतिच. reads मुख्यश्चार्थप्र.

34 स्मृतिच.III.65 परा.मा.III 45, वीर. p.51, परा.मा.reads नृपेण विनियुक्तो...दोषानवेक्षणे, परा.मा.reads नृपस्य समयं ज्ञात्वा.

35 स्मृतिच.III.p.21, परा.मा.III p.16, वीर. p.9.

36 स्मृतिच.III.p.29, कृत्यकल्पतरु, परा.मा.p.17, वीर. p.9, वीर.reads नियमार्थेषु for निर्णयार्थे तु, कृत्यकल्पतरु reads निर्णयार्थे च and स्मृतिशास्त्रे.

37 स्मृतिच.III.p.22, परा.मा.p.17, वीर.p.9, टोडरानन्द. टोडरानन्द reads समुदाचर्यते येन धर्मो वाधर्म एव वा.

38 स्मृतिच. III p.32, परा.मा.III.p.17, वीर.p.10.

39 वीर.p.120

40-41 टोडरानन्द वीर.p.120

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विरुद्धं न्यायतो यत्तु चरित्रं कल्प्यते नृपैः।
एवं तत्र निरस्येत चरित्रं तु नृपाज्ञया।।४२।।

अनेन विधिना युक्तं बाधकं यद्यदुत्तरम्।
अन्यथाबाधनं यत्र तत्र धर्मो विहन्यते।।४३

अस्वर्ग्या लोकनाशाय परानीकभयावहा।
आयुर्बीजहरी राज्ञां सति वाक्ये स्वयं कृतिः।।४४।।

तस्माच्छास्त्रानुसारेण राजा कार्याणि साधयेत्।
वाक्याभावे तु सर्वेषां देशदृष्टेन सन्नयेत्।।४५।।

यस्य देशस्य यो धर्मः प्रवृत्तः सार्वकालिकः।
श्रुतिस्मृत्यविरोधेन देशदृष्टः स उच्यते।।४६।।

देशपत्तनगोष्ठेषु पुरग्रामेषु वासिनाम्।
तेषां स्वसमयैर्धर्मशास्त्रतोऽन्येषु तैः सह।।४७।।

देशस्यानुमतेनैव व्यवस्था या निरूपिता।
लिखिता तु सदा धार्या मुद्रिता राजमुद्रया।।४८।।

शास्त्रवद्यत्नतो रक्ष्या तां निरीक्ष्य विनिर्णयेत्।
नैगमस्थैस्तु यत्कार्यं लिखितं यद् व्यवस्थितम्।।४९।।

तस्मात्तत्संप्रवर्तेत नान्यथैव प्रवर्तयेत्।।५०।।

प्रमाणदेशदृष्टं तु यदेवमिति निश्चितम्।
अप्रवृत्तं कृतं यत्र श्रुतिस्मृत्यनुमोदितम्।
नान्यथा तत्पुनः कार्ये न्यायापेतं विवर्जयेत्।।५१।।

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42 टोडरानन्द, वीर.p.121. वीर. reads बुधैः for नृपैः.
43 टोडरानन्द, वीर.p.121.
44 अपरार्क.p.599, स्मृतिच.III p.57, वीर. p.124 (Which reads राज्ञामस्त्रि वाक्येष्वियं कृतिः). स्मृतिच. reads अस्वर्ग्यलोक. and आयुवीर्यहरा.
45 अपरार्क p.599, स्मृतचि.p.57, परा.मा.III.41, वीर.p.124 स्मृतिच.reads दृष्टं मतं, अपरार्क reads तन्नयेत्. परा.मा.and स्मृतिच.read दृष्टमतं नयेत्.
46 स्मृतिच.III.58, परा.मा.III.p.41.
47 स्मृतिच.III.58, परा.मा.III.p.41, परा.मा.reads वादिनाम् and धर्मः शास्त्रतो &c.
48-49 स्मृतिच.III.58, टोडरानन्द (which reads लेखिता तु सदा कार्या लेखिता राज.).
50-51 टोडरानन्द

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५ (धर्माधिकरणम्) ५२-५९

धर्मशास्त्रविचारेण मूलसारविवेचनम्।
यत्राधिक्रियते स्थाने धर्माधिकरणं हि तत्।।५२।।

प्रातरुत्थाय नृपतिः शौचं कृत्वा समाहितः।
गुरुं ज्योतिर्विदं वैद्यान्देवान्विप्रान्पुरोहितान्।।५३।।

यथार्हमेतान्संपूज्य सुपुष्पाभरणाम्बरैः।
अभिवन्द्य च गुर्वादीन् सुमुखां प्रविशेत् सभाम्।।५४।।

विनीतवेषो नृपतिः सभां गत्वा समाहितः।
आसीनः प्राङ्मुखः स्थित्वा पश्येत्कार्याणि कार्यिणाम्।
सह त्रैविद्यवृद्धैश्च मन्त्रज्ञैश्चैव मन्त्रिभिः।।५५।।

सप्राड्विवाकः सामात्यः सब्राह्मणपुरोहितः।
ससभ्यः प्रेक्षको राजा स्वर्गे तिष्ठति धर्मतः।।५६।।

सह सभ्यैः स्थिरैर्युक्तैः प्राज्ञैर्मौलैर्द्विजोत्तमैः।
धर्मशास्त्रार्थकुशलैरर्थशास्त्रविशारदैः।।५७।।

कुलशीलवयोवृत्तवित्तवद्भिरमत्सरैः।
वणिग्भिः स्यात्कतिपयैः कुलभूतैरधिष्ठितम्।।५८।।

श्रोतारो वणिजस्तत्र कर्तव्या न्यायदर्शिनः।।५९।।

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52 स्मृतिच,III.p.42, परा.मा.III.p.22, वीर.p.11 (which reads धर्मशास्त्रानुसारेण अर्थशास्त्रविवेचनम्).
53-54 परा.मा.III.p.22. These are ascribed to बृहस्पति by स्मृतिच. (III p.34).
55 स्मृतिच.III p.52, व्य.मा.p.278 (first two lines).
56 मिता.(on या. II.2), व्य.मा.p.278, स्मृतिच.III p.30, परा.मा.III p.31, वीर.p.41.
57 मिता.(on या. II.2), व्य.मा.p.278, स्मृतिच.III p.33, वीर.p.41. All except व्य.मा. read स तु सभ्यैः, व्य.मा.reads प्रज्ञामूलैः for प्राज्ञैर्मौलैः and युक्तः for युक्तैः. राज.र. p.87 has the half verse धर्मशा.
58 मिता.(on याज्ञ. II.2), स्मृतिच.III p.38, परा.मा.III.p.32, वीर.p.41. व्यवहारतत्त्व p.199. स्मृतचि. reads वृत्ति for वृत्त.
59 स्मृतिच.III.38, परा.मा.III.p.31, वीर.p.41. स्मृतचि. reads न्यायदर्शने.

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६ (कार्यदर्शनकालः) ६०-६२

सभास्थानेषु पूर्वाह्णे कार्याणां निर्णयं नृपः।
कुर्याच्छास्त्रप्रणीतेन मार्गेणामित्रकर्षणः।।६०।।
दिवसस्याष्टमं भागं मुक्त्वा कालत्रयं तु यत्।
स कालो व्यवहाराणां शास्त्रदृष्टः परः स्मृतः।।६१
आद्यादह्नोऽष्टभागाद्यदूर्ध्वं भागत्रयं भवेत्।
स कालो व्यवहाराणां शास्त्रे दृष्टो मनीषिभिः।।६२

७ (प्राड्विवाकः) ६३-७०

यदा न कुर्यान्न नृपतिः स्वयं कार्यविनिर्णयम्।
तदा तत्र नियुञ्जीत ब्राह्मणं शास्त्रपारगम्।।६३
दक्षं कुलीनमध्यस्थमनुद्वेगकरं स्थिरम्।
परत्र भीरुं धर्मिष्ठमुद्युक्तं क्रोधवर्जितम्।।६४
अक्रूरो मधुरः स्निग्धः क्षमायातो विचक्षणः।
उत्साहवानलुब्धश्च वादे योज्यो नृपेण तु।।६५
एकशास्त्रमधीयानो न विद्यात्कार्यनिश्चयम्।
तस्माद्बह्वागमः कार्यो विवादेषूत्तमो नृपैः।।६६
ब्राह्मणो यत्र न स्यात्तु क्षत्रियं तत्र योजयेत्।
वैश्यं वा धर्मशास्त्रज्ञं शूद्रं यत्नेन वर्जयेत्।।६७

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60 व्य.मा.p.284, वीर.p.28, व्य.मा.reads सभास्थाने तु and शास्त्रप्रमाणेन.
61 व्य.मा.p.284, वीर.p.28, परा.मा.III.p.23, व्यवहारतत्त्व p.200.
62 अपरार्क.p.601, ,स्मृतिच.p.60.
63 व्य.मा.p.279, स्मृतिच.III p.36, राज.र.p.18, वीर.p.18, व्य.मा.and राज.र. reads यदि कार्यवशाद्राजा न पश्येत्कार्यनिर्णयम्. व्यवहारतत्त्व p.198 read यदि कार्यवशा..र्णयम् (as व्य.मा. does).
64 मिता.(on या. II.3), स्मृतिच.III p.36, व्य.मा.p.279, वीर.p.33. मिता.and व्य.मा. read दान्तं कुलीनम्
65 मिता.III.p.36, परा.मा.III.p.29, (not cited as कात्यायन but from स्मृत्यन्तर).
66 अपरार्क.p.601, स्मृतचि III.p.36, राज.र.p.23, वीर.p.33. अपरार्क reads एकं शास्त्रमधीते यो न राज.र. reads एवं शास्त्र. राज.र. reads तस्माद्बुर्गागमः कार्यो विवादेनोत्तमो.
67 मिता.(on या. II.3), अपरार्क.p.601, व्य.मा.p.279, राज.र.p.23, परा.मा.III.p.29, अपरार्क and वीर. and कुल्लूक (on मनु 8.20) read यत्र विप्रो न विद्वान् स्यात् and व्य.मा.p.279 reads यदि विप्रो न and राज.र.reads यत्र विद्वान्न विप्रः स्यात् स्मृतिच.III.p.37) gives यत्र विप्रो न विद्वान् स्यात् and ब्राह्मणो यत्र न स्यात्तु as two different verses of कात्यायन, though the last three padas of each are the same.

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अतोऽन्यैर्यत्कृतं कार्यमन्यायेन कृतं तु तत्।
नियुक्तैरपि विज्ञेयं दैवाद्यद्यपि शास्त्रतः।।६८

व्यवहाराश्रितं प्रश्नं पृच्छति प्राडिति स्थितिः।
विवेचयति यस्तस्मिन्प्राड्विवाकस्ततः स्मृतः।।६९

अनिर्णीते तु यद्यर्थे संभाषेत रहोऽर्थिना।
प्राड्विवाकोऽथ दण्ड्यः स्यात्सभ्याश्चैव विशेषतः।।७०

८ (सभ्याः) ७१-८१

अलुब्धा धनवन्तश्च धर्मज्ञाः सत्यवादिनः।
सर्वशास्त्रप्रवीणाश्च सभ्याः कार्या द्विजोत्तमाः।।७१

न्यायशास्त्रमतिक्रम्य सभ्यैर्यत्र विनिश्चितम्।
तत्र धर्मो ह्यधर्मेण हतो हन्ति न संशयः।।७२

यत्र धर्मो ह्यधर्मेण सत्यं यत्रानृतेन च।
हन्यते प्रेक्षमाणानां हतास्तत्र सभासदः।।७३

अधर्मतः प्रवृत्तं तु नोपेक्षेरन् सभासदः।
उपेक्षमाणाः सनृपा नरकं यान्त्यधोमुखाः।।७४

अन्यायेनापि तं यान्तं येऽनुयान्ति सभासदः।
तेऽपि तद्भागिनस्तस्माद्बोधनीयः स तैर्नृपः।।७५

न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः।
वक्तव्यं तत्प्रियं तत्र न सभ्यः किल्बिषी भवेत्।।७६

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68 अपरार्क.p.601, राज.र.p.23, व्यवहारतत्त्व.p.198.
69 व्य.मा.p.278, अपरार्क.p.602 (quotes it as from वृद्धबृहस्पति).
70 स्मृतिच.III p.51, स.वि.p.69, परा.मा.III p.35, व्य.मा.p.283, (which reads यद्यर्थं...रहोर्थिनं). स्मृतिच. and व्य.मा. read श्चैव न संशयः.
71 अपरार्क.p.601, राज.र.p.23, (which reads कार्या नृपैर्द्विजाः)
72 अपरार्क.p.604, स्मृतिच.III p.47, परा.मा.III.p.32.
73 अपरार्क.p.604, This is मनु 8.14.
74 स्मृतिच.III.47, परा.मा.III.p.33, अपरार्क.p.604, राज.र.p.25, परा.मा. reads अपन्यायप्रवृत्तम्
75 मिता.(on या.II), स्मृतिच.III.p.47, परा.मा.III.p.33, अपरार्क p.604 राज.र.p.25 अपरार्क and राज.र. read अन्यायतो यियासन्तं, स्मृतिच. reads बोधनीयः शनैर्नृपः.
76 स्मृतिच.III p.47, राज.र.p.25, परा.मा.III p.33, टोडरानन्द (which reads वक्तव्यं तत्प्रियं नात्र). स्मृतिच. reads मतःreads कर्तव्यं for वक्तव्यम्.

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सभ्येनावश्यवक्तव्यं धर्मार्थसहितं वचः।
शृणोति यदि नो राजा स्यात्तु सभ्यस्ततोऽनघः।।७७

अधर्माय यदा राजा नियुञ्जीत विवादिनाम्।
विज्ञाप्य नृपतिं सभ्यस्तदाकार्यं निवर्तयेत्।।७८

स्नेहादज्ञानतो वापि लोभाद्वा मोहतोऽपि वा।
तत्र सभ्योऽन्यथावादी दण्ड्योऽसभ्यः स्मृतो हि सः।।७९

कार्यस्य निर्णयं सम्यग् ज्ञात्वा सभ्यस्ततो वदेत्।
अन्यथा नैव वक्तव्यं वक्ता द्विगुणदण्डभाक्।।८०

सभ्यदोषात्तु यन्नष्टं देयं सभ्येन तत्तदा।
कार्यं तु कार्यिणामेव निश्चितं न विचालयेत्।।८१

९ (कार्यनिर्णेतॄणां गुरुलाघवम्) ८२-८५

कुलानि श्रेणयश्चैव गणस्त्वधिकृतो नृपः।
प्रतिष्ठा व्यवहाराणां गुर्वेभ्यस्तूत्तरोत्तरम्।।८२

तपस्विनां तु कार्याणि त्रैविद्यैरेव कारयेत्।
मायायोगविदां चैव न स्वयं कोपकारणात्।।८३।।

सम्यग्विज्ञानसंपन्ने नोपदेशं प्रकल्पयेत्।
उत्कृष्टजातिशीलानां गुर्वाचार्यतपस्विनाम्।।८४।।

गोत्रस्थितिस्तु या तेषां क्रमादायाति धर्मतः।
कुलधर्मं तु तं प्राहुः पालयेत्तं तथैव तु।।८५।।

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77 स्मृतिच.III.p.49, परा.मा.III p.33, राज.र.p.25, व्यवहारतत्त्व.p.199 (reads तदानुणः).
78 राज.र.p.24.
79 स्मृतिच.III p.50, अपरार्क.p.603, परा.मा.III p.34, स्मृतिच. reads मोहाद्वा लोभतोपि वा.
80 स्मृतिच.III p.50, अपरार्क.p.603,
81 स्मृतिच.III p.51, स.वि.p.69, (कारिणामेव for कार्यिणामेव).
82 व्य.मा.p.208, (which ascribes it to मनु and कात्या). This is नारद I.7.
83 व्य.मा.p.281, (attributes to both बृहस्पति and कात्यायन). वीर.p.30, ascribes it to बृहस्पति.
84 वीर.p.31.,
85 वीर.p.29.

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१० (प्रश्नप्रकारः) ८६-८८

काले कार्यार्थिनं पृच्छेत् प्रणतं पुरतः स्थितम्।
किं कार्यं का च ते पीडा मा भैषीर्ब्रूहि मानव।।८६

केन कस्मिन् कदा कस्मात् पृच्छेदेवं सभागतः।
एवं पृष्टः स यद् ब्रूयात्तत्सभ्यैर्ब्राह्मणैः सह।।८७।।

विमृश्य कार्यं न्यायं चेदाह्वानार्थमतः परम्।
मुद्रां वा निक्षिपेत्तस्मिन् पुरुषं वा समादिशेत्।।८८।।

११ (प्रतिनिधिः) ८९-९५

समर्पितोऽर्थिना योऽन्यः परो धर्माधिकारिणि।
प्रतिवादी स विज्ञेयः प्रतिपन्नश्च यः स्वयम्।।८९

अधिकारोऽभियुक्तस्य नेतरस्यास्त्यसङ्गतेः।
इतरोऽप्यभियुक्तेन प्रतिरोधीकृतो मतः।।९०।।

अर्थिना संनियुक्तो वा प्रत्यर्थिप्रहितोऽपि वा।
यो यस्यार्थे विवदते तयोर्जयपराजयौ।।९१।।

दासाः कर्मकराः शिष्या नियुक्ता बान्धवास्तथा।
वादिनो न च दण्डयाः स्युः यस्त्वतोऽन्यः स दण्डभाक्।।९२।।

ब्रह्महत्यासुरापानस्तेयगुर्वङ्गनागमे।
अन्येषु चातिपापेषु प्रतिवादी न दीयते।।९३

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86 स्मृतिच.III.p.70, व्य.मा.III p.286, परा.मा.III.p.52, वीर.p.47, मिता.(on या.III.5) quotes this and the following two as from स्मृत्यन्तर अपरार्क also.p.605 quotes them without citing the name. स.वि. p.75 quotes this verse as कात्यायन gloss on the words केन कास्मिन् कदा...गतः which it attributes to मनु.

87 स्मृतिच.III.p.70, परा.मा.III p.52, वीर.p.47, (which reads सभागतम्), व्य.मा.III p.286, (first half).

88 मिता.(on या. II.5), अपरार्क.p.605, स्मृतिच.III.p.72, परा.म.III.p.55, वीर.p.52

89 स्मृतिच.III.p.72, अपरार्क.p.639, स.वि.p.80.

90 स्मृतिच.III.p.73, अपरार्क.p.639 (which reads प्रहितोधिकृतो मतः), वीर.p.52 (first half), स.वि.p.80.

91 व्य.मा.p.287 (ascribes it to नारद and कात्यायन), अपरार्क p.639, स्मृतिच.III.p.71, परा.म.III.p.53, वीर.p.48. कृत्यकल्पतरु ascribes it to नारद and कात्यान.

92 अपरार्क.p.639, स्मृतिच.III.p.71, परा.म.III.p.54.

93 व्य.मा.p.287, अपरार्क p.639, स्मृतिच.III.p.75, वीर.p.54, अपरार्क reads अन्येष्वसह्यवादेषु and स्मृतिच reads अन्येष्वसभ्य and व्य.मा. reads अन्योन्यसङ्घ.

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मनुष्यमारणे स्तेये परदाराभिमर्शने।
अभक्ष्यभक्षणे चैव कन्याहरणदूषणे।।९४।।

पारुष्ये कूटकरणे नृपद्रोहे तथैव च।
प्रतिवादी न दातव्यः कर्ता तु विवेदेत्स्वयम् ।।९५।।

१२ (आह्वानम्) ९६-१०२

धर्मोत्सुकानभ्युदये रोगिणोऽथ जडानपि।
अस्वस्थमत्तोन्मत्तार्तस्त्रियो नाह्वानयेन्नृपः।।९६।।

न हीनपक्षां युवतिं कुले जातां प्रसूतिकाम्।
सर्ववर्णोत्तमां कन्यां तां ज्ञातिप्रभुकाः स्मृताः।।९७।।

तदधीनकुटुम्बिन्यः स्वैरिण्यो गणिकाश्च याः।
निष्कुला याश्च पतितास्तासामाह्वानमिष्यते।।६८।।

सशस्त्रोऽनुत्तरीयो वा मुक्तकेशः सहासनः।
वामहस्तेन वा वादं वदन्दण्डमवाप्नुयात्।।९९।।

आहूतस्त्ववमन्येत यः शक्तो राजशासनम्।
तस्य कुर्यान्नृपो दण्डं विधिदृष्टेन कर्मणा।।१००।।

हीने कर्मणि पञ्चाशन्मध्यमे द्विशतावरः।
गुरुकार्येषु दण्डः स्यान्नित्यं पञ्चशतावरः।।१०१।।

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94 व्य.मा.p.287, अपरार्क p.639, स्मृतिच.III.p.75, वीर.p.54, व्यवहारतत्त्व p.200.

95 व्य.मा.p.287, अपरार्क p.639, (reads न दाप्यः स्यात्), वीर.p.54, (reads कर्तापि), स्मृतिच.III.p.75, (reads न दाप्यः स्यादर्थिप्रत्यर्थिनोपरि), व्यवहारतत्त्व p.200.

96 स्मृतिच.III.p.74, परा.मा.III.p.51, वीर.p.52, ascribes अकल्पबालस्थविरविषमस्थाक्रियाकुलान् कार्यातिपातिव्यसनिनृपकार्योत्सवाकुलान्। मत्तोन्मत्तप्रमत्तार्तभृत्यान्नाह्वानयेन्नृपः to कात्यायन, but they are omitted here, as these are ascribed to हारीत by स्मृतिच and परा.मा.and to नारद व्य.म.

97 स्मृतिच.III.p.74, परा.मा.III.p.51 (which reads स्वजातिप्रभुकां चैव तथा नाह्वानयेन्नृपः), वीर.p.52 मिता.on या.II.5.cites as स्मृत्यन्तर.

98 स्मृतिच.III.p.74, परा.मा.III.p.51, वीर.p.53, मिता.on या.II.5.cites as स्मृत्यन्तर.

99 अपरार्क p.605, व्य.मा.p.286, स.वि.76, अपरार्क reads वा स्रग्वी, for वा वादं, व्य.मा. reads मुक्तकच्छः

100 अपरार्क p.605, स्मृतिच.p.76, परा.मा.III.p.51.

101 अपरार्क p.607, स्मृतिच.III.p.76, परा.मा.III.p.51 अपरार्क reads मध्यमेन शतावरम् and पञ्चशतावरम् परा.मा. reads मध्यमे तु शतावरः.

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कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः।
पणानां ग्रहणं तु स्यात् तन्मूल्यं वाथ राजनि।।१०२।।

१३ (आसेधः) १०३-१०५

उत्पादयति यो हिंसां देयं वा न प्रयच्छति।
याचमानाय दौःशील्यादाकृष्योऽसौ नृपाज्ञया।।१०३।।
आवेद्य तु नृपे कार्यमसन्दिग्धे प्रतिश्रुते।
तदासेधं प्रयुञ्जीत यावदाह्वानदर्शनम्।।१०४।।
आसेधयोग्य आसिद्ध उत्क्रामन्दण्डमर्हति।।१०५।।

१४ (अनासेध्याः) १०६-११३

यस्त्विन्द्रियनिरोधेन व्याहारोच्छ्वसनादिभिः।
आसेधयेदनासेध्यं स दण्ड्यो न त्वतिक्रमी।।१०६।।
वृक्षपर्वतमारूढा हस्त्यश्वरथनौस्थिताः।
विषमस्थाश्च ते सर्वे नासेध्याः कार्यसाधकैः।।१०७
व्याध्यार्त्ता व्यसनस्थाश्च यजमानास्तथैव च।
अनुत्तीर्णाश्च नासेध्या मत्तोन्मत्तजडास्तथा।।१०८
न कर्षको बीजकाले सेनाकाले तु सैनिकः।
प्रतिज्ञाय प्रयातश्च कृतकालश्च नान्तरा।।१०९
उद्युक्तः कर्षकः सस्ये तोयस्यागमने तथा।
आरम्भात्संग्रहं यावत् तत्कालं न विवादयेत्।
आसेधयंस्त्वनासेध्यं राज्ञा शास्य इति स्थितिः।।११०
अभियुक्तश्च रुद्धश्च तिष्ठेयुश्च नृपाज्ञया।
न तस्यान्येन कर्तव्यमभियुक्तं विदुर्बुधाः।।१११

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102 स्मृतिच.III.p.76, स.वि.p.82, (reads शक्तितः for यत्नत).
103 वीर.p.55, स्मृतिच.III.p.76, ascribes it to व्यास.
104 वीर.p.55.
105 वीर.p.55, स्मृतिच.III.p.68, ascribes it to व्यास.
106 स्मृतिच.III.p.76, परा.मा.III.p.48, वीर.p.56, व्य.मा.p.9, परा.मा reads व्यवहारोत्सवादिभिः अनासेध्यैः, and अतिक्रमात् व्य.म.has the last two, वीर has अनासेध्यैः and अतिक्रमम्.
107 स्मृतिच.III.p.68, परा.मा.III.p.48, वीर.p.56.
108 स्मृतिच.III.p.68, परा.मा.III.p.49, वीर.p.56 (has first half).
109 स्मृतिच.III.p.68, परा.मा.III.p.49, कृत्यकल्पतरु (has first half).
110 कृत्यकल्पतरु स्मृतिच.III.p.69, परा.मा.III.p.49, (which reads वापस्यागमने), वीर.p.56 (last line), व्य.मा.p.9 (last line), The first three omit the last line.
111 कृत्यकल्पतरु
112 वीर.p.57, अपरार्क.p.607 (reads नेता for तेन) has latter half only.

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एकाहद्व्यहाद्यपेक्षं देशकालाद्यपेक्षया।
दूताय साधिते कार्ये तेन भक्तं प्रदापयेत्।।११२
देशकालवयः शक्त्याद्यपेक्षं भोजनं स्मृतम्।
आकारकस्य सर्वत्र इति तत्त्वविदो विदुः।।११३

१५ (प्रतिभूत्वेनाग्राह्याः) ११४-१२०द

न स्वामी न च वै शत्रुः स्वामिनाधिकृतस्तथा।
निरुद्धो दण्डितश्चैव संशयस्थाश्च न क्वचित्।।११४
नैव रिक्थी न रिक्तश्च न चैवात्यन्तवासिनः।
राजकार्यनियुक्तश्च ये च प्रव्रजिता नराः।।११५
नाशक्तो धनिने दातुं दण्डं राज्ञे च तत्सममम्।
जीवन्वापि पिता यस्य तथैवेच्छाप्रवर्तकः।
नाविज्ञातो ग्रहीतव्यः प्रतिभूत्वक्रियां प्रति।।११६
अथ चेत्प्रतिभूर्नास्ति वादयोग्यस्य वादिनः।
स रक्षितो दिनस्यान्ते दद्याद् दूताय वेतनम्।।११७
द्विजातिः प्रतिभूहीनो रक्ष्यः स्याद् बाह्यचारिभिः।
शूद्रादीन्प्रतिभूहीनान् बन्धयेन्निगडेन तु।।११८
अतिक्रमेऽपयाते च दण्डयेत्तं पणाष्टकम्।
नित्यकर्मोपरोधस्तु न कार्यः सर्ववर्णिनाम्।।११९

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113 वीर.p.57, अपरार्क.p.607, (reads देशः कालो वयः शक्तिरपेक्ष्या भोजने तथा and धर्मविदो for तत्वविदो).

114 स्मृतिच.III.p.78, (and p.318), मिता (on या.II.57), वि.र.p.39, परा.मा.III.p.57 and pp.253-254, वीर.p.58 and 330 (has 114-116). परा.मा at p. 254 reads निरुद्धो दण्डितश्चैव शिल्पिनश्चाब्रवीद्भृगुः and adds देशाचारेण दाप्याः स्युर्दष्टान् संपीड्य दापयेत्.

115 स्मृतिच.III.p.78, and 318, वि.र.p.39, परा.मा.III.p.57 and also p.254, वीर.p.58, वि.र., परा.मा.p.254 and मिता read मित्रं च for रिक्तश्च.

116 मिता.(on या.II.p.57), स्मृतिच.III.p.78, परा.मा.III.p.57, वि.र.p.39, मिता and वि.र.read प्रतिभूः स्वक्रियां प्रति and परा.मा.reads प्रतिभूस्तत्क्रियां. All except मिता omit the half जीवन्वापि &c.

117 मिता.(या.II.10), व्य.मा.p.289, स्मृतिच.III.p.78, परा.मा.III.p.58, वीर.p.59, स.वि.p.83, व्यवारतत्त्व p.202 व्य.मा.read वादयोग्यश्च मिता read कार्ययोग्यस्तु वीर.and परा.मा.read भृत्याय दूताय, स.वि.reads सार्थयोर्यस्य वादिनः व्यवहारतत्त्व reads योग्यस्तु वादिनोः which is a good reading.

118 परा.मा.III.p.58.

119 परा.मा.III.p.58.

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गृहीतग्रहणो न्याये न प्रवर्त्यो महीभृता।
तस्य वा तत् समर्प्यं स्यात् स्थापयेद्वा परस्य तत्।।१२०

१६ (अभियोक्त्रादीनामुक्तिक्रमः) १२१-१२३

तत्राभियोक्ता प्राग् ब्रूयादभियुक्तस्त्वनन्तरम्।
तयोरन्ते सदस्यास्तु प्राड्विवाकस्ततः परम्।।१२१

यस्य स्यादधिका पीडा कार्यं वाप्यधिकं भवेत्।
पूर्वपक्षो भवेत्तस्य न यः पूर्वं निवेदयेत्।।१२२

यस्य वार्थगता पीडा शारीरी वाधिका भवेत्।
तस्यार्थिवादो दातव्यो न यः पूर्वं निवेदयेत्।।१२३

१७ (प्रतिज्ञास्वरूपम्) १२४-१३५

निवेश्य कालं वर्षं च मासं पक्षं तिर्थिं तथा।
वेलां प्रदेशं विषयं स्थानं जात्याकृती वयः।।१२४

साध्यप्रमाणं द्रव्यं च संख्यां नाम तथात्मनः।
राज्ञां च क्रमशो नाम निवासं साध्यनाम च।।१२५

क्रमात्पितृणां नामानि पीडां चाहर्तृदायकौ।
क्षमालिङ्गानि चान्यानि पक्षं सङ्कीर्त्य कल्पयेत्।।१२६

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120 व्य.मा.p.287, स्मृतिच.III.p.78, टोडरानन्द.व्य.मा. and टोडरानन्द read न्यायो for न्याये, तस्यैव for तस्य वा and परत्र for परस्य.

121 अपरार्क.p.611, स्मृतिच.III.p.79, परा.मा.III.p.58, वीर.p.57, व्य.मा.p.289, (reads तयोरुक्तौ for तयोरन्ते), स.वि.p.83.

122 व्य.मा.p.290, व्यवहारतत्त्व.p.200, परा.मा.III.p.59, स्मृतिच.III.p.79, स.वि.p.83 (reads one verse as यस्य वाप्यधिका पीडा अकार्यं वाधिकं भवेत्। तस्यार्थिवादो).

123 व्य.मा.p.291, स्मृतिच.III.p.79, परा.मा.III.p.59, स्मृतिच reads कार्यं वा ह्यधिकं भवेत् and परा.मा.read कार्यं वाभ्यधिकं.

124 विश्वरूप (on या.II.6), व्य.मा.p.295, अपरार्क.p.608, स्मृतिच.III.p.81, परा.मा.III.p.62, वीर.p.62. परा.मा.reads प्रवेशं for प्रदेशं and अपरार्क reads वेलां प्रदेयं विषयं, विश्वरूप has लेखाप्रदेशं.

125 विश्वरूप (on या.II.6), व्य.मा.p.295, अपरार्क.p.608, परा.मा.III.p.62, स्मृतिच.III.p.81, वीर.p.62. विश्वरूप reads साध्यार्थमानं, स्मृतिच reads साध्यद्रव्यप्रमाणं वीर and अपरार्क read साध्यं प्रमाणं द्रव्यं च व्य.मा.reads साध्यमेव च.

126 विश्वरूप, अपरार्क p.608, व्य.मा.p.295, परा.मा.III.p.62, स्मृतिच.III.p.81, वीर.p.62. व्य.मा.reads लेखयेत् for कल्पयेत् विश्वरूप reads क्षमालिङ्गाद्यादिकालं.

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देशश्चैव तथा स्थानम् सन्निवेशस्तथैव च।
जातिः संज्ञा निवासश्च प्रमाणं क्षेत्रनाम च।।१२७

पितृपैतामहं चैव पूर्वराजानुकीर्तनम्।
स्थावरेषु विवादेषु दशैतानि निवेशयेत्।।१२८

रागादीनां यदेकेन कोपितः करणे वदेत्।
तदोमिति लिखेत्सर्वं वादिनः फलकादिषु।।१२९

अधिकान् शोधयेदर्थान् न्यूनांश्च प्रतिपूरयेत्।
भूमौ निवेशयेत्तावद्यावत्पक्षः प्रतिष्ठितः।।१३०

पूर्वपक्षं स्वभावोक्तं प्राड्विवाकोऽभिलेखयेत्।
पाण्डुलेखेन फलके ततः पत्रे विशोधितम्।।१३१

अन्यदुक्तं लिखेदन्यद्योऽर्थिप्रत्यर्थिनां वचः।
चौरवच्छासयेत्तं तु धार्मिकः पृथिवीपतिः।।१३२

सोल्लेखनं वा लभते त्र्यहं सप्ताहमेव वा।
मतिरुत्पद्यते यावद्विवादे वक्तुमिच्छतः।।१३३

यस्मात्कार्यसमारम्भाच्चिरात्तेन विनिश्चयः।
तस्मान्न लभते कालमभियुक्तस्तु कालभाक्।।१३४

मतिर्नोत्सहते यत्र विवादे कार्यमिच्छतोः।
दातव्यस्तत्र कालः स्यादर्थिप्रत्यर्थिनोरपि।।१३५

127- 128 अपरार्क.p.608, स्मृतिच.III.p.84, परा.मा.III.62, वीर.p.64, परा.मा.reads देशं कालं तथात्मानं संनिवेशं and जातिसंज्ञाधिवासांश्च.

129 टोडरानन्द (which ascribes it to both नारद and कात्ययान), स.वि.p.79, (which ascribes it to गोभिल) reads अर्थिनः for वादिनः.

130 विश्वरूप (on या.II.6), अपरार्क.p.611, स्मृतिच.III.p.90, परा.मा.III.65, अपरार्क and परा.मा.read छातयेत् and last pada as यावदर्थोभिवर्णितः परा.मा.reads छेदयेत् and प्रतिपूजयेत् स्मृतिच reads छेदयेत्.

131 मिता (on या.II.6), अपरार्क p.611, परा.मा.III.p.67, स्मृतिचIII.p.9, व्यवहारतत्त्व p. 204.

132 वीर.p.71 (which reads त्रासयेत् for शसयेत्), व्य.मा.p.297, व्यवहारतत्त्व.p.204.

133 परा.मा.III.p.66

134 व्य.मा.p.290, व्यवहारतत्त्व.p.203 (reads विनिश्चितः).

135 व्य.मा.p.290.

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१८ प्रतिज्ञादोषाः (पूर्वपक्षदोषाः) १३६-१४४

यश्च राष्ट्रविरुद्धश्च यश्च राज्ञा विवर्जितः।
अनेकपदसंकीर्णः पूर्वपक्षो न सिध्यति।।१३६

बहुप्रतिज्ञं यत्कार्यं व्यवहारेषु निश्चितम्।
कामं तदपि गृह्णीयाद्राजा तत्त्वबुभुत्सया।।१३७

देशकालविहीनश्च द्रव्यसंख्याविवर्जितः।
साध्यप्रमाणहीनश्च पक्षो नादेय इष्यते।।१३८

न्यायस्थं नेच्छते कर्तुमन्यायं वा करोत्ययम्।
न लेखयति यस्त्वेवं तस्य पक्षो न सिध्यति।।१३९

अप्रसिद्धं निराबाधं निरर्थं निष्प्रयोजनम्।
असाध्यं वा विरुद्धं वा पक्षाभासं विवर्जयेत्।।१४०

प्रतिज्ञादोषनिर्मुक्तं साध्यं सत्कारणान्वितम्।
निश्चितं लोकसिद्धं च पक्षं पक्षविदो विदुः।।१४१

स्वल्पाक्षरः प्रभूतार्थो निःसंदिग्धो निराकुलः।
विरोधिकारणैर्मुक्तो विरोधिप्रतिषेधकः।।१४२

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136 विश्वरूप (on या.II.5), मिता (on या.II.6), व्य.मा.p.296, अपरार्क.p.609, स्मृतिच.III.p.89, परा.मा.III.p.65, वीर.p.68, अपरार्क स्मृतिच, परा.मा. and वीर read पुरराष्ट्रविरुद्धश्च.

137 मिता (on या.II.6), अपरार्क p.609, व्य.मा.p.296, स्मृतिच.III.p.89, परा.मा.III.p.65, वीर.p.69, स.वि.p.89, व्य.मा.read व्यवहारेष्वनिश्चितम्, स्मृतिच reads व्यवहारे सुनिश्चितम्.

138 अपरार्क p.609, (not named), स्मृतिच II.p.84, व्य.मा.p.297, परा.मा.III.61, वीर.p.69 स.वि.p.87, स्मृतिच and स.वि read क्रियाप्रमाणहीनश्च, वीर.reads क्रियामानविहीनश्च.

139 विश्वरूप on या.II.6 (no name), स्मृतिच III.p.88, वीर.p.69, विश्वरूप reads न्यायं मे नेच्छते and वीर.reads न्यायं संयच्छते.

140 विश्वरूप on या.II.6 (no name), मिता on या.II.6 (no name), वीर.p.66, परा.मा.III.p.61 and व्य.मा.p.13 (as स्मृत्यन्तर). विश्वरूप reads सदोषं च for निराबाधं and पक्षं राजा विवर्जयेत्.

141 विश्वरूप on या.II.6 (no name), कृत्यकल्पतरु (ascribes this and the following two verses to both कात्यायन and बृहस्पति), व्य.मा.p.291, (ascribes this and the next to both कात्या. and बृह.), व्यवहारतत्त्व p.203 (ascribes 141-143 to both), टोडरानन्द, पर.मा.III.p.61 (which acribes this and the next to बृहस्पति). अपरार्क p.610 acribes to बृहस्पति so does स्मृतिच.III.p.90.

142 कृत्यकल्पतरु, व्य.मा.p.291, टोडरानन्द (which reads विरोधिकरणैः and प्रतिरोधकः), पार.मा.III.p.61 (which reads अल्पाक्षरस्त्वसन्दिग्धो बह्वर्थश्चाप्यनाकुलः। युक्तो विरोधिकरणे), व्यवहारतत्त्व.p.204.

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यदा त्वेवंविधः पक्षः कल्पितः पूर्ववादिना।
दद्यात्तत्पक्षसंबद्धं प्रतिवादी तदोत्तरम्।।१४३
श्राव्यमाणोऽर्थिना यत्र यो ह्यर्थो न विघातितः।
दानकालेऽथवा तूष्णीं स्थितः सोऽर्थोऽनुमोदितः।।१४४

१९ (उत्तरं सद्यो दातव्यं कालान्तरेण वा दातव्यम्) १४५-१६४

श्रुत्वा लेख्यगतं त्वर्थं प्रत्यर्थी कारणाद्यदि।
कालं विवादे याचेत तस्य देयो न संशयः।।१४५
सद्यो वैकाहपञ्चाहत्र्यहं वा गुरुलाघवात्।
लभेतासौ त्रिपक्षं वा सप्ताहं वा ऋणादिषु।।१४६
कालं शक्तिं विदित्वा तु कार्याणां बलाबलम्।
अल्पं वा बहु वा कालं दद्यात्प्रत्यर्थिने प्रभुः।।१४७
दिनं मासार्धमासौ वा ऋतुः संवत्सरोऽपि वा।
क्रियास्थित्यनुरूपस्तु देयः कालः परेण तु।।१४८
व्यपैति गौरवं यत्र विनाशस्त्याग एव वा।
कालं तत्र न कुर्वीत कार्यमात्ययिकं हि तत्।।१४९
धेनावनडुहि क्षेत्रे स्त्रीषु प्रजनने तथा।
न्यासे याचितके दत्ते तथैव क्रयविक्रये।।१५०
कन्याया दूषणे स्तेये कलहे साहसे निधौ।
उपधौ कौटसाक्ष्ये च सद्य एव विवादयेत्।।१५१
साहसस्तेयपारुष्यगोऽभिशापे तथात्यये।
भूमौ विवादयेत् क्षिप्रमकालेऽपि बृहस्पतिः।।१५२

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143 कृत्यकल्पतरु, टोडरानन्द, व्यवहारतत्त्व p.204. ,
144 कृत्यकल्पतरु.
145 अपरार्क p.619, स्मृतिच III.p.94, व्य.मा.p.298, परा.मा.III.69, वीर.p.138 व्य.मा. read लेखयते for अपरार्क and वीर. read लेखयतो.
146 व्य.मा.p.298, स्मृतिच III.p.95, (which reads सद्य एकाहूपञ्चाहौ),
147 स्मृतिच III.p.95, व्य.मा.p.298.
148 अपरार्क p.619, स्मृतिच III.p.96, वीर.p.138.
149 स्मृतिच III.p.93, अपरार्क p.619, वीर.p.140.
150 अपरार्क p.619, स्मृतिच III.p.94, परा.मा.III.p.71, वीर.p.140.
151 अपरार्क p.620, स्मृतिच III.p.94, परा.मा.III.p.72, वीर.p.140.
152 वीर.p.140 (ascribes both to बृहस्पति and कात्यायन), परा.मा.III.p.72, (ascribes it to बृहस्पति).

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सद्यः कृतेषु कार्येषु सद्य एव विवादयेत्।
कालातीतेषु वा कालं दद्यात्प्रत्यर्थिने प्रभुः।।१५३

सद्यः कृते सद्य एव मासातीते दिनं भवेत्।
षडाब्दिके त्रिरात्रं स्यात्सप्ताहं द्वादशाब्दिके।।१५४

विंशत्यब्दे दशाहं तु मासार्धं वा लभेत सः।
मासं त्रिंशत्समातीते त्रिपक्षं परतो भवेत्।।१५५

कालं संवत्सरादर्वाक् स्वयमेव यथेप्सितम्।
संवत्सरं जडोन्मत्तमनस्के व्याधिपीडिते।।१५६

दिगन्तरप्रपन्ने वा अज्ञातार्थे च वस्तुनि।
मूलं वा साक्षिणो वाथ परदेशे स्थिता यदा।।१५७

तत्र कालो भवेत्पुंसामास्वदेशसमागमात्।
दत्तेऽपि काले देयं स्यात्पुनः कार्यस्य गौरवात्।।१५८

पूर्वपक्षश्रुतार्थस्तु प्रत्यर्थी तदनन्तरम्।
पूर्वपक्षार्थसंबन्धं प्रतिपक्षं निवेदयेत्।।१५९

आचारद्रव्यदानेष्टकृत्योपस्थाननिर्णये।
नोपस्थितो यदा कश्चिच्छलं तत्र न कारयेत्।।१६०

दैवराजकृतो दोषस्तस्मिन्काले यदा भवेत्।
अबाधत्यागमात्रेण न भवेत्स पराजितः।।१६१

दैवराजकृतं दोषं साक्षिभिः प्रतिपादयेत्।
जैह्म्येन वर्तमानस्य दण्डो दाप्यस्तु तद्धनम्।।१६२

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153 स्मृतिच III.p.94, अपरार्क p.619, वीर.p.138 (reads समं कृतेषु कार्येषु), व्यवहारतत्त्व p.205.

154 अपरार्क p.619, स्मृतिच III.p.95, व्य.मा.p.298, वीर.p.138, व्य.मा.reads सद्यः कृते सद्योवादः समातीते. परा.मा.III.p.70 ascribes this and the following two verses to बृहस्पति.

155 अपरार्क p.619, स्मृतिच III.p.95, व्य.मा.p.298, वीर.p.138 अपरार्क read विंशात्परे for विंशत्यब्दे

156 स्मृतिच III.p.94, परा.मा.III.p.70 (latter half), अपरार्क p.619 (has only first half as कालात्संवत्सरात्.

157 स्मृतिच III.p.95, परा.मा.III.p.70, अपरार्क p.619.

158 स्मृतिच III (first half), परा.मा.III.p.71.

159 व्य.मा.p.299 (ascribes to कात्यायन and नारद).

160-62 व्य.मा.p.299.

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अभियुक्तोऽभियोक्तारमभियुञ्जीत कर्हिचित्।
अन्यत्र दण्डपारुष्यस्तेयसंग्रहणात्ययात्।।१६३

यावान्यस्मिन्समाचारः पारंपर्यक्रमागतः।
तं प्रतीक्ष्य यथान्यायमुत्तरं दापयेन्नृपः।।१६४

२० (चतुविधमुत्तरम्) १६५-१७२

सत्यं मिथ्योत्तरं चैव प्रत्यवस्कन्दनं तथा।
पूर्वन्यायविधिश्चैवमुत्तरं स्याच्चतुर्विधम्।।१६५

श्रुत्वा भाषार्थमन्यस्तु यदा तं प्रतिषेधति।
अर्थतः शब्दतो वापि मिथ्या तज्ज्ञेयमुत्तरम्।।१६६

अभियुक्तोऽभियोगस्य यदि कुर्यात्तु निह्नवम्।
मिथ्या तत्तु विजानीयादुत्तरं व्यवहारतः।।१६७

साध्यस्य सत्यवचनं प्रतिपत्तिरुदाहृता।।१६८

मिथ्यैतन्नाभिजानामि तदा तत्र न संनिधिः।
अजातश्चास्मि तत्काल इति मिथ्या चतुर्विधम्।।१६९

योऽर्थिनार्थः समुद्दिष्टः प्रत्यर्थी यदि तं तथा।
प्रपद्य कारणं ब्रूयादाधर्यं गुरुरब्रवीत्।।१७०

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163 व्य.मा.p.299.

164 अपरार्क p.619, स्मृतिच III.p.96, स.वि.p.92, अपरार्क reads यो वा यस्मिन् and परीक्ष्य for प्रतीक्ष्य.

165 मिता. (on या.II.7), व्य.मा.p.299, वीर.p.74.

166 अपरार्क p.612, व्य.मा.p.301, वीर.p.76, व्यवहारतत्त्व p.207, व्य.मा. reads यदि for यदा.

167 मिता. (on या.II.7), व्य.मा.p.301, स्मृतिच.III.p.97, वीर.p.75, स.वि.p.92, मिता and स.वि.read कुर्यादपह्नवम्.

168 मिता.on या.II.7, स्मृतिच.III.p.97, स.वि.p.92, स्मृतिच reads तथ्यवचनं. व्य.मा.p.300, attributes this to व्यास.

169 मिता. (on या.II.7), अपरार्क.p.612, स्मृतिच.III.p.98, स.वि.p.92, अपरार्क reads तदा मे भूदसंनिधिः.

170 व्य.मा.p.307, टोडरानन्द, वीर.p.78, वीर reads अर्थिनाभिहितो योर्थः and आधर्यं भृगुरब्रवीत् टोडरानन्द reads आधर्यं मनुरब्रवीत्. व्य.मा.reads अर्थिनाभिहितो योर्थः and reads last line as प्रत्यवस्कन्दनं हि तत् and ascribes it to बृहस्पति.

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आचारेणावसन्नोऽपि पुनर्लेखयते यदि।
सोऽभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते।।१७१
विभावयामि कुलिकैः साक्षिभिर्लिखितेन वा।
जितश्चैव मयायं प्राक् प्राङ्न्यायस्त्रिप्रकारकः।।१७२

२१ (उत्तराभासा उत्तरदोषा वा) १७३-१९०

अप्रसिद्धं विरुद्धं यदत्यल्पमतिभूरि च।
संदिग्धासम्भवाव्यक्तमन्यार्थं चातिदोषवत्।।१७३
अव्यापकं व्यस्तपदं निगूढार्थं तथाकुलम्।
व्याख्यागम्यमसारं च नोत्तरं शस्यते बुधैः।।१७४
यद् व्यस्तपदमव्यापि निगूढार्थं तथाकुलम्।
व्याख्यागम्यमसारं च नोत्तरम् स्वार्थसिद्धये।।१७५
चिह्नाकारसहस्रं तु समयं चाविजानता।
भाषान्तरेण वा प्रोक्तमप्रसिद्धं तदुत्तरम्।।१७६
प्रतिदत्तं मया बाल्ये प्रतिदत्तं मया नहि ।
यदेवमाह विज्ञेयं विरुद्धं तदिहोत्तरम्।।१७७
जितः पुरा मयायं च त्वर्थेऽस्मिन्निति भाषितुम्।
पुरा मयायमिति यत्तदूनं चोत्तरं स्मृतम्।।१७८
गृहीतमिति वाच्ये तु कार्यं तेन कृतं मया।
पुरा गृहीतं यद्द्रव्यमिति यच्चातिभूरि तत्।।१७९
देयं मयेति वक्तव्ये मयादेयमितीदृशम्।
संदिग्धमुत्तरं ज्ञेयं व्यवहारे बुधैस्तदा।।१८०

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171 मिता. (on या II.7), वीर.p.82, (refers to both कात्या and बृह).
172 स्मृतिच III.p.9, वीर.p.82.
173 अपरार्क p.614, स्मृतिच III.p.99, परा.मा.III.p.73, वीर.p.84.
174 स्मृतिच.p.99, व्यवहारतत्त्व p.207 reads अस्तव्यस्तपदव्यापि निगूढार्थं and says that भवदेव in his व्यवहारतत्त्व explained अस्तव्यस्तपदव्यापि as अनन्वितार्थपदव्याप्तं.
175 अपरार्क.p.614, परा.मा.III.p.73, व्य.मा.p.303, वीर.p.84, मिता (on या.II.7) cites as स्मृत्यन्तर.
176-177 स्मृतिच.III.p.99, परा.मा.p.73, वीर.p.84.
178 स्मृतिच.III.p.99, परा.मा.III.p.74, वीर.p.84, परा.मा.reads भाषिते and वीर reads चेद्वक्ति.
179 स्मृतिच.III.p.100, परा.मा.III.p.74, वीर.p.84, परा.मा.reads इति चेद्वक्ति.
180 स्मृतिच.III.p.100, परा.मा.III.p.74, वीर.p.85.

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बलाबलेन चैतेन साहस स्थापितं पुरा।
अनुक्तमेतन्मन्यन्ते तदन्यार्थमितीरितम्।।१८१

अस्मै दत्तम् मया सार्धं सहस्रमिति भाषिते।
प्रतिदत्तम् तदर्धं यत् तदिहाव्यापकं स्मृतम्।।१८२

पूर्ववादी क्रियां यावत्सम्यङ्नैव निवेशयेत्।
मया गृहीतम् पूर्वं नो तद्व्यस्तपदमुच्यते।।१८३

तत्किं तामरसम् कश्चिदगृहीतम् प्रदास्यति।
निगूढार्थं तु तत् प्रोक्तमुत्तरम् व्यवहारतः।।१८४

किं तेनैव सदा देयं मया देयं भवेदिति।
एतदाकुलमित्युक्तमुत्तरम् तद्विदो विदुः।।१८५

काकस्य दन्ता नो सन्ति सन्तीत्यादि यदुत्तरम्।
असारमिति तत्त्वेन सम्यङ्नोत्तरमिष्यते।।१८६

प्रस्तुतादल्पमव्यक्तं न्यूनाधिकमसङ्गतम्।
अव्याप्यसारं संदिग्धं प्रतिपक्षं न लङ्घयेत्।।१८७

संदिग्धमन्यत्प्रकृतादत्यल्पमतिभूरि च।
पक्षैकदेशव्याप्येव तत्तु नैवोत्तरं भवेत्।।१८८

पक्षैकदेशे यत्सत्यमेकदेशे च कारणम्।
मिथ्या चैवैकदेशे च सङ्करात्तदनुत्तरम्।।१८९

न चैकस्मिन्विवादे तु क्रिया स्याद्वादिनोर्द्वयोः।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयम्।।१९०

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181 स्मृतिच.III.p.100, परा.मा.III.p.74, वीर.p.85.
182 स्मृतिच.III.p.101, परा.मा.III.p.74.
183 स्मृतिच.III.p.101, परा.मा.III.p.74.
184 स्मृतिच.III.p.101, परा.मा.III.p.74, (which reads किञ्चिदगृहीतं), स.वि.p.94 (which reads अगृहीतं न दास्यति).
185 स्मृतिच.III.p.101, परा.मा.III.p.75.
186 स्मृतिच.III.p.101, परा.मा.III.p.75, वीर.p.84 (which reads तत्तेन समं नोत्तरमिष्यते).
187 व्य.मा.p.303.
188 अपरार्क p.614, व्य.मा.p.303, मिता (on या.II.7) cites as स्मृत्यन्तर.
189 मिता (on या.II.7), अपरार्क.613, व्य.मा.p.303, स्मृतिच.III.p.101, वीर.p.85, परा.मा.III.77.
190 व्य.मा.p.297, मिता (on या.II.7), अपरार्क p.613, वीर.p.85, परा.मा.III.p.77, स्मृतिच III.p.102.

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२२ (वादहानिकरणं) १९१-२१०

प्रपद्य कारणं पूर्वमन्यद् गुरुतरं यदि।
प्रतिवाक्यगतं ब्रूयात्साध्यते तद्धि नेतरत्।।१९१

यथार्थमुत्तरं दद्यादयच्छन्तं च दापयेत्।
सामभेदादिभिर्मार्गैर्यावत्सोऽर्थः समुत्थितः।।१९२

मोहाद्वा यदि वा शाठ्याद्यन्नोक्तं पूर्वतादिना।
उत्तरान्तर्गतं चापि तद्ग्राह्यमुभयोरपि।।१९३

उपायैश्चोद्यमानस्तु न दद्यादुत्तरं तु यः।
अतिक्रान्ते सप्तरात्रे जितोऽसौ दातुमर्हति।।१९४

श्रावयित्वा यथाकार्यं त्यजेदन्यद्ब्रुवेदसौ।
अन्यपक्षाश्रयस्तेन कृतो वादी स हीयते।।१९५

न मयाभिहितं कार्यमभियुज्य परं वदेत्।
विब्रुवंश्च भवेदेवम् हीनं तमपि निर्दिशेत्।।१९६

लेखयित्वा तु यो वाक्यं हीनं वाप्यधिकं पुनः।
वदेद्वादी स हीयेत नाभियोगं तु सोऽर्हति।।१९७

सभ्याश्च साक्षिणश्चैव क्रिया ज्ञेया मनीषिभिः।
तां क्रियां द्वेष्टि यो मोहात् क्रियाद्वेषी स उच्यते।।१९८

आह्वानादनुपस्थानात्सद्य एव प्रहीयते।।१९९

ब्रूहीत्युक्तोऽपि न ब्रुयात् सद्यो बन्धतमर्हति।
द्वितीयेऽहनि दुर्बुद्धेर्विद्यात्तस्य पराजयम्।।२००

व्याजेनैव तु यत्रासौ दीर्घकालमभीप्सति।
सापदेशं तु तद् विद्याद्वादहानिकरं स्मृतम्।।२०१

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191 अपरार्क p.614, व्य.मा.p.307, स्मृतिच.III.p.119, व्य.मा.reads प्रतिवाक्ये गतिं.
192 अपरार्क p.615, वीर.p.74 (has only first half),
193 अपरार्क p.615, स्मृतिच.III.p.91, वीर.p.74.
194 परा.मा.III.p.81, स्मृतिच.III.p.105.
195 अपरार्क p.622, स्मृतिच.III.p.106, वीर.p.98, स.वि.p.102.
196 अपरार्क p.622, स्मृतिच.III.p.106, वीर.p.98, स.वि.p.102.
197 अपरार्क p.622, स्मृतिच.III.p.106, परा.मा.III.p.81, वीर.p.98, स.वि.p.102.
198 स्मृतिच.III.p.106, परा.मा.III.p.81, वीर.p.98, स.वि.p.102.
199 परा.मा.III.p.82, वीर.p.98, स्मृतिच.III.p.107 स.वि.p.102.
200 स्मृतिच.III.p.107, परा.मा.III.p.82, वीर.p.98 (reads सद्यस्तद्धनमर्हति), स.वि.p.102.
201 अपरार्क p.622, स्मृतिच.III.p.107, वीर.p.98 (reads कालमति क्रमेत्).

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अन्यवादी पणान् पञ्च क्रियाद्वेषी पणान्दश।
नोपस्थाता दश द्वौ च षोडशैव निरुत्तरः।
आहूतप्रपलायी च पणान् ग्राह्यस्तु विंशतिम्।।२०२

त्रिराहूतमनायान्तमाहूतप्रपलायिनम्।
पञ्चरात्रमतिक्रान्तम् विनये तं महीपतिः।।२०३

श्रावितव्यवहाराणामेकं यत्र प्रभेदयेत्।
वादिनं लोभयेच्चैव हीनं तमिति निर्दिशेत्।।२०४

भयं करोति भेदं वा भीषणं वा निरोधनम्।
एतानि वादिनोऽर्थस्य व्यवहारे स हीयते।।२०५

दोषानुरूपं संग्राह्यः पुनर्वादो न विद्यते।
उभयोर्लिखिते वाच्ये प्रारब्धे कार्यनिश्चये।
अयुक्तं तत्र यो ब्रुयात् तस्मादर्थात् स हीयते।।२०६

साक्षिणो यस्तु निर्दिश्य कामतो न विवादयेत्।
स वादी हीयते तस्मात् त्रिंशद्रात्रात्परेण तु।।२०७

पलायनानुत्तरत्वादन्यपक्षाश्रयेण च।
हीनस्य गृह्यते वादो न स्ववाक्यजितस्य तु।।२०८

यो हीनवाक्येन जितस्तस्योद्धारं विदुर्बुधाः।
स्ववाक्यहीनो यस्तु स्यात् तस्योद्धारो न विद्यते।।२०९

आवेद्य प्रगृहीतार्थाः प्रशमं यान्ति ये मिथः।
सर्वे द्विगुणदण्ड्याः स्युः विप्रलम्भान्नृपस्य ते।।२१०

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202 स्मृतिच III.p.107, स्मृतिच.III.p.83, वीर.p.98, स.वि.p.103 स्मृतिच reads आहूतविपलायी and स.वि. reads आहूतव्यपवायी (?).
203 स्मृतिच III.p.108, परा.मा.p.83, वीर.p.99.
204 स्मृतिच III.p.108, वीर.p.99 (reads तमपि for तमिपि), स.वि.p.103 (reads तमपि).
205 स.वि.p.103.
206 अपरार्क p.615, (reads अनुक्तं for अयुक्तं), परा.मा.III.pp.83-84, वीर.p.74, स्मृतिच.III.p.109 परा.मा.and स्मृतिच. read वाक्ये for वाच्ये.
207 अपरार्क p.622, स्मृतिच.III.p.110,
208 व्य.मा.p.310, वीर.p.103, स्मृतिच.III.p.111, व्य.मा. ascribes it to बृहस्पति.
209 स्मृतिच.III.p.111, वीर.p.103, (read हीनचिह्नेन).
210 स्मृतिच.III.p.112, परा.मा.III.p.84, वीर.p.104, परा.मा.and वीर read प्रगृहीतार्थं.

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२३ (क्रियापादः) २११-२१३

कारणात्पूर्वपक्षोऽपि ह्युत्तरत्वं प्रपद्यते।
अतः क्रिया तदा प्रोक्ता पूर्वपक्षप्रसाधिनी।।२११
शोधिते लिखिते सम्यगिति निर्दोष उत्तरे।
प्रत्यर्थिनोऽर्थिनो वापि क्रियाकरणमिष्यते।।२१२
वादिना यदभिप्रेतम् स्वयम् साधयितुं स्फुटम्।
तत्साध्यं साधनम् येन तत्साध्यं साध्यतेऽखिलम्।।२१३

२४ (प्रमाणानि, तेषां च बलाबलादिविचारः) २१४-२४८

लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं विदुः।
लेशोद्देशस्तु युक्तिः स्याद्दिव्यानीह विषादयः।।२१४
पूर्ववादेऽपि लिखिते read यथाक्षरमशेषतः।
अर्थी तृतीयपादे तु क्रियया प्रतिपादयेत्।।२१५
कार्यं हि साध्यमित्युक्तं साधनं तु क्रियोच्यते।
द्विभेदा सा पुनर्ज्ञेया दैविकी मानुषी तथा।
मानुषी लेख्यसाक्ष्यादिर्वधादिर्दैविकी मता।।२१६
संभवे साक्षिणां प्राज्ञो दैविकीं वर्जयेत्क्रियाम्।
संभवे तु प्रयुञानो दैविकीं हीयते ततः।।२१७
यद्येको मानुषीं ब्रूयादन्यो ब्रूयात्तु दैविकीम्।
मानुषीं तत्र गृह्णीयान्न तु दैवीं क्रियां नृपः।।२१८
यद्येकदेशव्याप्तापि क्रिया विद्येत मानुषी।
सा ग्राह्या न तु पूर्णापि दैविकी वदतां नृणाम्।।२१९

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211 अपरार्क p.624, परा.मा.III.p.87, वीर.p.79.
212 स्मृतिच III.p.113, वीर.p.92, स.वि.p.105 (reads क्रिया कारणमिष्यते)
213 व्य.मा.p.334, वीर.p.107
214 वीर.p.110, परा.मा.III.p.91, (reads साक्षिणो लिखितं भुक्तिः and लिङ्गोद्देशस्तु युक्तिः)
215 वीर.p.111.
216 अपरार्क p.616.
217 स्मृतिच.III.p.116.
218 मिता.(on या.II 22), व्य.मा.p.315, अपरार्क p.628, स्मृतिच.III.p.116, परा.मा.III.p.87, वीर.p.111
219 मिता (on या.II 22), व्य.मा.p.311, स्मृतिच.III.p.116, परा.मा.III.p.88, वीर.p.111, अपरार्क reads प्राप्तापि for व्याप्तापि and न्याय्या for ग्राह्या. व्य.मा. and वीर. also read प्राप्तापि.

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पञ्चप्रकारं दैवं स्यान्मानुषं त्रिविधं स्मृतम्।।२२०

क्रियां बलवतीं मुक्त्वा दुर्बला योऽवलम्बते।
स जयेऽवधृते सभ्यैः पुनस्तां नाप्नुयात् क्रियाम्।।२२१

सारभूतं पदं मुक्त्वा असाराणि बहून्यपि।
संसाधयेत्क्रिया या तु तां जह्यात्सारवर्जिताम्।।
पक्षद्वयं साधयेद्या तां जह्याद्दूरतः क्रियाम्।।२२२

क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु।
लेख्ये च सति वादेषु न दिव्यं न च साक्षिणः।।२२३

कालेन हीयते लेख्यं दूषितं न्यायतस्तथा।
अलेख्यसाक्षिके दैवीं व्यवहारे विनिर्दिशेत्।
दैवसाध्ये पौरुषेयीं न लेख्यं वा प्रयोजयेत्।।२२४

पूगश्रेणिगणादीनां या स्थितिः परिकीर्तिता।
तस्यास्तु साधनं लेख्यं न दिव्यं न च साक्षिणः।।२२५

द्वारमार्गक्रियाभोगजलवाहादिके तथा।
भुक्तिरेव हि गुर्वी स्यान्न लेख्यं न च साक्षिणः।।२२६

दत्तादत्तेऽथभृत्यानां स्वामिना निर्णये सति।
विक्रयादानसंबन्धे क्रीत्वा धनमयच्छति।।२२७

द्यूते समाह्वये चैव विवादे समुपस्थिते।
साक्षिणः साधनं प्रोक्तं न दिव्यं न च लेख्यकम्।।२२८

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220 स्मृतिच III.p.124

221 मिता.(on या.II 80), व्य.मा.p.281, 309, 336, वीर.p.108.

222 स्मृतिच III.p.116, (has first two lines), वीर.p.108.

223 व्य.मा.p.306, 308, 315, अपरार्क p.690 (which reads देया for प्रोक्ता), परा.मा.III.p.88 (which reads क्रिया तु ... प्राप्ता).

224 व्य.मा.p.340 (first line), स्मृतिच III.p.149, (has only the half अलेख्य), वीर.p.113-114 (has last two lines).

225-228 स्मृतिच.III.p.122, मिता.(on या.II 22 without name), परा.मा.III.p.88-89, अपरार्क p.629, वीर.p.112. मिता reads न लेख्यं and जलवाहादिषुक्रिया, परा.मा.reads स्वामिनां for स्वामिना, अपरार्क reads दत्तादत्ते तथादत्ते. वीर. reads दत्तादत्तेषु and स्वामिना and वाहादिषु क्रिया.

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प्रक्रान्ते साहसे वादे पारुष्ये दण्डवाचिके।
बलोद्भूतेषु कार्येषु साक्षिणो दिव्यमेव वा।।२२९

गूढसाहसिकानां तु प्राप्तं दिव्यैः परीक्षणम्।
युक्तिचिह्नेङ्गिताकारवाक्चक्षुश्चेष्टितैर्नृणाम्।।२३०

उत्तमेषु च सर्वेषु साहसेषु विचारयेत्।
सद्भावं दिव्यदृष्टेन सत्सु साक्षिषु वै भृगुः।।२३१

समत्वं साक्षिणां यत्र दिव्यैस्तत्रापि शोधयेत्।
प्राणान्तिकविवादेषु विद्यमानेषु साक्षिषु।
दिव्यमालम्बते वादी न पृच्छेत्तत्र साक्षिणः।।२३२

ऋणे लेख्यं साक्षिणो वा युक्तिलेशादयोऽपि वा।
दैविकी वा क्रिया प्रोक्ता प्रजानां हितकाम्यया।।२३३

चोदना प्रतिकालं च युक्तिलेशस्तथैव च।
तृतीयः शपथः प्रोक्तः तैर्ऋणं साधयेत्क्रमात्।।२३४

अभीक्ष्णं चोद्यमानोऽपि प्रतिहन्यान्न तद्वचः।
त्रिः चतुः पञ्चकृत्वो वा परतोऽर्थं समाचरेत्।।२३५

चोदनाप्रतिघाते तु युक्तिलेशैः समान्वियात्।
देशकालार्थ संबन्ध-परिमाण-क्रियादिभिः।।२३६

युक्तिष्वप्यसमर्थासु शपथैरेव निर्णयेत्।
अर्थकालबलापेक्षैरग्न्यम्बुसुकृतादिभिः।।२३७

यत्र स्यात्सोपधं लेख्यं तद्राज्ञः श्रावितं यदि।
दिव्येन शोधयेत्तत्र राजा धर्मासनस्थितः।।२३८

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229 अपरार्क p.629, स्मृतिच III.p.117, (which reads बलोद्भवेषु), मिता. on या.II 22 (दिव्यमेव च), परा.मा.III.p.91, स.वि.p.107 (reads बलोद्भवेषु).
230 स्मृतिच III.p.117, वीर.p.113, (युक्तिलेशेङ्गिता).
231 स्मृतिच III.p.117, परा.मा.III.p.90, (reads सर्वं तु दिव्य).
232 व्य.मा.p.316, अपरार्क p.630, स्मृतिच III.p.121, परा.मा.III.p.90, वीर.p.114, व्य.मा. reads तत्र विशोधयेत् and दिव्यमापद्यते, स्मृतिच.reads प्राणान्तिकविवादे वा.
233 स्मृतिच.III.p.118, परा.मा.III.p.91, (reads भुक्तिलेख्यादयोपि वा), स.वि.p.107.
234-237 परा.मा.III.p.91, (reads युक्तिर्लेखस्तथैव and युक्तिलेखैः, शपथैरे न मर्दयेत् बलापेक्षं). स्मृतिच.(III.pp.117-118) appears to attribute these four to नारद.
238 अपरार्क p.630, स्मृतिच III.p.122, वीर.p.115, (reads राज्ञे) परा.मा.III.p.90 (यद्राजश्रावितं).

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वाक्पारुष्ये च भूमौ च दिव्यं न परिकल्पयेत्।।२३९

स्थावरेषु विवादेषु दिव्यानि परिधारयेत्।
साक्षिभिर्लिखितेनार्थे (र्थं) भुक्त्या चैव प्रसाधयेत्।।२४०

प्रमाणैर्हेतुना वापि दिव्येनैव तु निश्चयम्।
सर्वेष्वेव विवादेषु सदाकुर्यान्नराधिपः।।२४१

लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतम्।
अनुमानं विदुर्हेतुं तर्कं चैव मनीषिणः।।२४२

पूर्वाभावे परेणैव नान्यथैव कदाचन।
प्रमाणैर्वादिनिर्दिष्टैर्भुक्त्या लिखितसाक्षिभिः।।२४३

न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत्।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः।।२४४

मिथ्योक्तौ स चतुष्पात्स्यात्प्रत्यवस्कन्दने तथा।
प्राङ्न्याये स च विज्ञेयो द्विपात्संप्रतिपत्तिषु।।२४५

पराजयश्च द्विविधः परोक्तः स्वोक्त एव च।
परोक्तः स्याद्दशविधः स्वोक्त एकविधः स्मृतः।।२४६

विवादान्तरसंक्रान्तिः पूर्वोत्तरविरुद्धता।
दूषणं स्वक्रियोत्पत्तेः परवाक्योपपादनम्।।२४७

अनिर्देशश्च देशस्य निर्देशोदेशकालयोः।
साक्षिणामुपजापश्च विद्वेषो वचनस्य च।।
अयुक्तदेशोपनयः साक्षिप्रश्ननिराक्रिया।।२४८

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239 अपरार्क p.629, स्मृतिच III.p.121.
240 व्य.मा.p.308.
241 अपरार्क p.628, स्मृतिच III.p.118, व्य.मा.p.314, स.वि.p.107 (reads सर्वेष्वर्थविवादेषु).
242 स.वि.p.107, वीर.p.115, (ascribes it to व्यास).
243 स्मृतिच.III.p.118, परा.मा.III.p.91, (reads भुक्तिलेख्यादयोपि वा), स.वि.p.107.
244 परा.मा.III.p.152, वीर.p.115.
245 स्मृतिच III.p.120, स.वि.p.108.
246-248 व्य.मा.pp.284-285.

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२५ (लेख्यम्) २४९-२६५

लेख्यं तु द्विविधं प्रोक्तं स्वहस्तान्यकृतं तथा।
असाक्षिमत्साक्षिमच्च सिद्धिर्देशस्थितेस्तयोः।।२४९

ग्राहकेण स्वहस्तेन लिखितं साक्षिवर्जितम्।
स्वहस्तलेख्यं विज्ञेयं प्रमाणं तत्स्मृतं बुधैः।।२५०

उत्पत्तिजातिसंज्ञां च धनसंख्यां च लेखयेत्।
स्मरत्येवं प्रयुक्तस्य नश्येदर्थस्त्वलेखितः।।२५१

लेख्यं तु साक्षिमत्कार्यमविलुप्ताक्षरक्रमम्।
देशाचारस्थितियुतं समग्रं सर्ववस्तुषु।।२५२

वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम्।
अहीनक्रमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात्।।२५३

चातुर्विद्यपुरश्रेणीगणपौरादिकस्थितिः।
तत्सिध्यर्थं तु यल्लेख्यं तद्भवोस्थितिपत्रकम्।।२५४

अभिशापे समुत्तीर्णे प्रायश्चित्ते कृते जनैः।
विशुद्धिपत्रकं ज्ञेयं तेभ्यः साक्षिसमन्वितम्।।२५५

उत्तमेषु समस्तेषु अभिशापे समागते।
वृत्तानुवादलेख्यं यत्तज्ज्ञेयं सन्धिपत्रकम्।।२५६

सीमाविवादे निर्णीते सीमापत्रं विधीयते।।२५७

राज्ञः स्वहस्तसंयुक्तं समुद्राचिह्नितं तथा।
राजकीयं स्मृतं लेख्यं सर्वेष्वर्थेषु साक्षिमत्।।२५८

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249 परा.मा.III.p.130. This is (ऋणादान verse 135). वीर.p.190 and मिता on या.II.84 ascribe it to नारद. अपरार्क p.686 cities the verse without naming the author.
250 स्मृतिच.III.p.136, परा.मा.III.p.127.
251-253 टोडरानन्द.
254 स्मृतिच.III.p.136, This is ascribed to पितामह by पर.मा.III.p.128.
255 व्य.म.p.25, वीर.p.189, This is ascribed to पितामह by पर.मा.III.p.128 and to हारीत by स.वि.p.116.
256 व्य.म.p.25, वीर.p.189.
257 स्मृतिच.III.p.137, परा.III.p.128, व्य.म.p.25, वीर.p.190.
258 टोडरानन्द.

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अर्थिप्रत्यर्थिवाक्यानि प्रतिज्ञा साक्षिवाक्तथा।
निर्णयश्च यथा तस्य यथा चावधृतं स्वयम्।।२५९

एतद्यथाक्षरं लेख्ये यथापूर्वं निवेशयेत्।
अभियोक्त्रभियुक्तानां वचनं प्राङ्निवेशयेत्।।२६०

सभ्यानां प्राड्विवाकस्य कुलानां वा ततः परम्।
निश्चयं स्मृतिशास्त्रस्य मतं तत्रैव लेखयेत्।।२६१

सिद्धेनार्थेन संयोज्यो वादी सत्कारपूर्वकम्।
लेख्यं स्वहस्तसंयुक्तं तस्मै दद्यात्तु पार्थिवः।।२६२

सभासदश्च ये तत्र स्मृतिशास्त्रविदः स्थिताः।
यथालेख्यविधौ तद्वत् स्वहस्तं तत्र दापयेत्।।२६३

अनेन विधिना लेख्यं पश्चात्कारं विदुर्बुधाः।
निरस्ता तु क्रिया यत्र प्रमाणेनैव वादिना।
पश्चात्कारो भवेत्तत्र न सर्वासु विधीयते।।२६४

अन्यवाद्यादिहीनेभ्य इतरेषां प्रदीयते।
वृत्तानुवादसंसिद्धं तच्च स्याज्जयपत्रकम्।।२६५

२६ (लेख्यपरीक्षा) २६६-३१२

राजाज्ञया समाहूय यथान्यायं विचारयेत्।
लेख्याचारेण लिखितं साक्ष्याचारेण साक्षिणः।।२६६

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259 स्मृतिच.III.p.130, व्यवहारतत्त्व.p.230, व्य.मा.p.309 (which reads यथाचारधृतं) which व्य.मा.p.353 has the same verse and reads प्रतिज्ञावचनं तथा and तथा चावधृतं.

260 स्मृतिच.III.p.130, व्य.मा.p.309 (first half) reads लेख्यं for लेख्ये, व्य.मा.p.353 has first half and reads तत्तद्यथाक्षरं.

261 स्मृतिच.III.p.130.

262 अपरार्क p.684, (reads सिद्धे चार्थेन), स्मृतिच.III.130, वीर.p.195.

263 स्मृतिच.III.130, व्य.मा.p.309, and p.353, वीर.p.195, (which reads स्वहस्तं दद्युरेव ते).

264 स्मृतिच.III.p.131, परा.III.pp.124-125, वीर.p.195.

265 स्मृतिच.III.p.131, परा.मा.III.125, वीर.p.195, टोडरानन्द. परा.मा. reads विधीयते for प्रदीयते and वृद्धानुवादसंसिद्धिः.

266 स्मृतिच.III.p.139, (reads क्रियां समाहूय) and also p.195, परा.मा.III.129, वीर.p.197 (reads राजा क्रियाः) स.वि.p.119 (also reads क्रियां समाहूय and suggests that समादाय would be good a reading).

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वर्णवाक्यक्रियायुक्तमसंदिग्धं स्फुटाक्षरम्।
अहीनक्रमचिह्नं च लेख्यं तत्सिद्धिमाप्नुयात्।।२६७

देशाचारयुतं वर्षमासपक्षादिवृद्धिमत्।
ऋणिसाक्षिलेखकानां हस्ताङ्कं लेख्यमुच्यते।।२६८

स्थानभ्रष्टास्त्वपङ्क्तिस्थाः संदिग्धा लक्षणच्युताः।
यदा तु संस्थिता वर्णाः कूटलेख्यं तदा भवेत्।।२६९

देशाचारविरुद्धं यत्संदिग्धं क्रमवर्जितम्।
कृतमस्वामिना यच्च साध्यहीनं च दुष्यति।।२७०

मत्तेनोपाधिभीतेन तथोन्मत्तेन पीडितैः।
स्त्रीभिर्बालास्वतन्त्रैश्च कृतं लेख्यं न सिध्यति।।२७१

ख्यापितं चेद् द्वितीयेऽह्नि न कश्चिद्विनिवर्तयेत्।
तथा तत्स्यात्प्रमाणं तु मत्तोन्मत्तकृताद्ऋते।।२७२

साक्षिदोषाद्भवेद्दुष्टं पत्रं वै लेखकस्य वा।
धनिकस्योपधादोषात्तथा धारणिकस्य वा।।२७३

दुष्टैर्दुष्टं भवेल्लेख्यं शुद्धं शुद्धैर्विनिर्दिशेत्।
तत्पत्रमुपधादुष्टैः साक्षिलेखककारकैः।।२७४

प्रमाणस्य हि ये दोषा वक्तव्यास्ते विवादिना।
गूढास्तु प्रकटाः सभ्यैः काले शास्त्रप्रदर्शनात्।।२७५

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267 स्मृतिच.III.p.139, परा.III.p.125, वीर.p.195, टोडरानन्द. परा.मा. reads विधीयते for प्रदीयते and वृद्धानुवादसंसिद्धिः.

268 स्मृतिच.III.p.140.

269 स्मृतिच.III.p.141, परा.मा.III.130 (which reads अकान्तिस्थाः).

270 अपरार्क p.686, स्मृतिच.III.p.141, (reads कृतं च स्वामिना), परा.मा.III.p.131, वीर.p.197

271 स्मृतिच.p.141, (मत्तेनोपाधि) स.वि.p.119.

272 टोडरानन्द.

273 व्य.मा.p.338, अपरार्क.p.686, परा.मा.III.131, स्मृतिच.III.p.131, स्मृतिच.III.p.142, (धनिकस्यापि वा), टोडरानन्द (reads धनिकस्योपधालेख्य), वीर.p.197

274 व्य.मा.p.338, वीर.p.197.

275 स्मृतिच.III.p.142 and p.192, परा.मा.III.p.132, अपरार्क p.671, व्य.मा.p.39, वीर.p.164.

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साक्षिलेखककर्तारः कूटतां यान्ति ते तथा।
तथा दोषाः प्रयोक्तव्या दुष्टैर्लेख्यं प्रदुष्यत।।२७६
न लेखकेन लिखितं न दृष्टं साक्षिभिस्तथा।
एवं प्रत्यर्थिनोक्ते तु कूटलेख्यं प्रकीर्त्तितम्।।२७७
नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत्।
मिथ्याभियोगे दण्ड्यः स्यात् साध्यार्थाच्चापि हीयते।।२७८
एवं दुष्टं नृपस्थाने यस्मिन् तद्धि विचार्यते।
विभृश्य ब्राह्मणैः सार्धं पत्रदोषान्निरूपयेत्।।२७९
येन ते कूटतां यान्ति साक्षिलेखककारकाः।
तेन दुष्टं भवेल्लेख्यं शुद्धैः शुद्धिं विनिर्दिशेत्।।२८०
धनिकेन स्वहस्तेन लिखितं साक्षिवर्जितम्।
भवेत् कूटं न चेत् कर्त्ता कृतं हीति विभावयेत्।।२८१
दत्तं लेख्ये स्वहस्तं तु ऋणिको यदि निह्नुते।
पत्रस्थैः साक्षिभिर्वाच्यो लेखकस्य मतेन वा।।२८२
कृताकृतविवादेषु साक्षिभिः पत्रनिर्णयः।
दूषिते पत्रके वादी तदारूढांस्तु निर्दिशेत्।।२८३
त्रिविधस्यापि लेख्यस्य भ्रान्तिः सञ्जायते नृणाम्।
ऋणिसाक्षिलेखकानां हस्तोक्त्या साधयेत्ततः।।२८४
अथ पञ्चत्वमापन्नो लेखकः सह साक्षिभिः।
तत्स्वहस्तादिभिस्तेषां विशुध्येत्तु न संशयः।।२८५

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276 स्मृतिच.III.p.142, परा.मा.III.p.132, वीर.p.199.
277 अपरार्क.p.689, स्मृतिच.III.p.143, परा.मा.III.p.132, वीर.p.198.
278 स्मृतिच.III.p.143, परा.मा.III.p.132 (reads तथ्येन हि प्रमाणं तु).
279 स्मृतिच.III.p.143, अपरार्क p.689, परा.मा.III.p.132-133 (attributes to बृहस्पति).
280 स्मृतिच.III.143, परा.मा.III.p.133.
281 अपरार्क.p.686, स्मृतिच.III.p.143, वीर.p.197.
282 स्मृतिच.III.p.144, परा.मा.III.p.133, (ascribes to बृहस्पति and reads साक्षिभिर्वाचा).
283 मिता on या II.92 (latter half), अपरार्क p.689 (first half), स्मृतिच.III.144, स.वि.p.120 (latter half only).
284 वीर.p.198, व्य.मा.p.339 (ascribes to नारद and reads हस्तोत्थे), परा.मा.p.134 (ascribes to बृहस्पति).
285 व्य.मा.p.339, अपरार्क.p.689, स्मृतिच.III.p.145, परा.मा.III.p.134, वीर.p.198.

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ऋणिस्वहस्तसन्देहे जीवतो वा मृतस्य वा।
तत्स्वहस्तकृतैरन्यैः पत्रैस्तल्लेख्यनिर्णयः।।२८६

समुद्रेऽपि यथा लेख्ये मृताः सर्वेऽपि ते स्थिताः।
लिखितं तत्प्रमाणं तु मृतेष्वपि हि तेषु च।।२८७

प्रत्यक्षमनुमानेन न कदाचित् प्रबाध्यते।
तस्माल्लेख्यस्य दुष्टस्य वचोभिः साक्षिणां भवेत्।।२८८

निर्णयः स्वधनार्थं हि पत्रं दूषयति स्वयम्।
लिखितं लिखितेनैव साक्षिमत्साक्षिभिर्हरेत्।।२८९

कूटोक्तौ साक्षिणां वाक्याल्लेखकस्य च पत्रकम्।
नयेच्छुद्धिं न यः कूटं स दाप्यो दममुत्तमम्।।२९०

आढ्यस्य निकटस्थस्य यच्छक्तेन न याचितम्।
शुद्धर्णशङ्कया तत्तु लेख्यं दुर्बलतामियात्।।२९१

लेख्यं त्रिंशत्समातीमदृष्टाश्रावितं च यत्।
न तत्सिद्धिमवाप्नोति तिष्ठत्स्वपि हि साक्षिषु।।२९२

प्रयुक्ते शान्तलाभे तु लिखितं यो न दर्शयेत्।
नैव याचेत ऋणिकं न तत्सिद्धिमवाप्नुयात्।।२९३

पश्चात्कारनिबद्धं यत्तद्यत्नेन विचारयेत्।
यदि स्याद्युक्तियुक्तं तु प्रमाणं लिखितं तदा।।२९४

अन्यथा दूरतः कार्यं पुनरेव विनिर्णयेत्।
अतथ्यं तथ्यभावेन स्थापितं ज्ञानविभ्रमात्।।

निवर्त्यं तत्प्रमाणं स्याद्यत्नेनापि कृतं नृपैः।२९५

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286 व्य.मा.p.399, अपरार्क.p.690, परा.मा.III.p.134, वीर.p.198.

287 अपरार्क.p.689, स्मृतिच.III.p.146, (which reads यथा for यदा and तत्स्थिताः) परा.मा.III.p.134.

288 अपरार्क.p.689, स्मृतिच.III.p.145

289 अपरार्क.p.689, स्मृतिच.III.p.145, परा.मा.III.p.134 (only latter half). अपरार्क has on p.690 the latter half joined to साक्षिभ्यो लिखितं श्रेयो लिखितान्न तु साक्षिणः (but no author is named), while स्मृतिच. ascribes latter half to नारद.

290 अपरार्क.p.689, वीर.p.199, परा.मा.III.p.134 (only first half) and p.138 (where we have whole verse and वाक्यं for वाक्यात्).

291-293 परा.मा.III.p.134-135, अपरार्क.692, (attributes to बृहस्पति), व्य.मा.p.340 (has 291-292 and ascribes to बृहस्पति) and p.294 (has 291), स्मृतिच.III.p.152 (asbcribes 291 to बृहस्पति and 292-293 to कात्यायन) reads तत्संदिग्धत्वमाप्नुयात्.

294-295 स्मृतिच.III.p.145-6.

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मुद्राशुद्धं क्रियाशुद्धं भुक्तिशुद्धं सचिह्नकम्।
राज्ञः स्वहस्तसंशुद्धं शुद्धिमायाति शासनम्।।२९६

निर्दोषं प्रथितं यत्तु लेख्यं तत्सिद्धिमाप्नुयात्।।२९७

दृष्टे पत्रे स्फुटान् दोषान्नोक्तवानृणिको यदि।
ततो विंशतिवर्षाणि स्थितं पत्रं स्थिरं भवेत्।।२९८

शक्तस्य सन्निधावर्थो येन लेख्येन भुज्यते।
वर्षाणि विंशतिं यावत्तत्पत्रं दोषवर्जितम् ।।२९९

अथ विंशतिवर्षानि आधिर्भुक्तः सुनिश्चितम्।
तेन लेख्येन तत्सिद्धिर्लेख्यदोषविवर्जिता।।३००

सीमाविवादे निर्णीते सीमापत्रं विधीयते।
तस्य दोषाः प्रवक्तव्या यावद्वर्षानि विंशतिः।।३०१

आधानसहितं यत्र ऋणं लेख्ये निवेशितम्।
मृतसाक्षि प्रमाणं तु स्वल्पभोगेषु तद्विदुः।।३०२

प्राप्तं वानेन चेत्किञ्चिद्दानं चाप्यनिरूपितम्।
विनापि मुद्रया लेख्यं प्रमाणं मृतसाक्षिकम्।।३०३

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296 अपरार्क.p.684, स्मृतिच.III.p.146, स.वि.p.121.

297 परा.मा.III.p.136.

298 व्य.मा.p.340, (reads क्रान्तपत्र), परा.मा.III.p.136 (reads तथा दृष्टं स्फुटं दोषं and क्रीतपत्रं स्थितं) वीर p.200.

299 मिता .on या.II. 24, (reads विंशतिवर्षाण्यतिक्रान्तं) अपरार्क.p.690, व्य.मा.p.340 (reads बन्धो for अर्थो), स्मृतिच.III.p.146 (reads येन लेख्येन) and 154 (reads दश वर्षाण्यतिक्रान्तं), परा.मा.III.p.136, वीर.p.200 and स.वि.p.127 (read विशदूर्षाण्यतिक्रान्तं).

300 मिता .on या.II. 24, स्मृतिच.III.p.146, (ascribes to स्मृत्यन्तर immedately after citing कात्यायन), अपराक p.691(read तत्सिकं लेख्यं दोषविवर्जितम्) परा.मा.III.p.136, (read as अपरार्क does), स.वि.p.121 (ascribes to स्मृत्यन्तर after citing कात्यायन and reads like अपरार्क), वीर.p.200, स.वि.p.128.

301 मिता.on या.II. 24, अपराक p.691, परा.मा.III.p.136, वीर.p.200, स्मृतिच.III.p.146 and स.वि.p.121 attribute to स्मृत्यन्तर, while स.वि.p.128 attributes this and the preceding to कात्यायन.

302 अपरार्क p.691, परा.मा.III.p.137, स.वि.p.122, अपरार्क attributes to नारद.

303 परा.मा.III.p.137, वीर.p.200 (reads देयं वाथ निरूपितम्).

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यदि लब्धं भवेत्किञ्चित् प्रज्ञप्तिर्वा कृता भवेत्।
प्रमाणमेव लिखितं मृता यद्यपि साक्षिणः।।३०४
दर्शितं प्रतिकालं यद् ग्राहितं स्मारितं तथा।
लेख्यं सिध्यति सर्वत्र मृतेष्वपि च साक्षिषु।।३०५
न दिव्यैः साक्षिभिर्वापि हीयते लिखितं क्वचित्।
लेख्यधर्मः सदा श्रेष्ठो ह्यतो नान्येन हीयते।।३०६
तद्युक्तप्रतिलेख्येन तद्विशिष्टेन वा सदा।
लेख्यक्रिया निरस्येत निरस्यान्येन न क्वचित्।।३०७
दर्पणस्थं यथा बिम्बमसत्सदिव दृश्यते।
तथा लेख्यस्य बिम्बानि कुर्वन्ति कुशला जनाः।।३०८
द्रव्यं गृहीत्वा यल्लेख्यं परस्मै संप्रदीयते।
छन्नमन्येन चारूढं संयतं चान्यवेश्मनि।।३०९
दत्ते वृत्तेऽथवा द्रव्ये क्वचिल्लिखितपूर्वके।
एष एव विधिर्ज्ञेयो लेख्यशुद्धिविनिर्णये।।३१०
स्थावरे विक्रयाधाने लेख्यं कूटं करोति यः।
स सम्यग्भावितः कार्यो जिह्वापाण्यङ्घ्रिवर्जितः।।३११
मलैर्यद्भेदितं दग्धं छिद्रितं वीतमेव वा।
तदन्यत्कारयेल्लेख्यं स्वेदेनोल्लिखितं तथा।।३१२

२७ (भुक्तिः) ३१३-३३५

लिखितं साक्षिणो भुक्तिः प्रमाणत्रयमिष्यते।
प्रमाणेषु स्मृता भुक्तेः सल्लेख्यसमता नृणाम्।।३१३

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304 अपरार्क.p.691, परा.मा.III.p.137, स.वि.p.122, अपरार्क attributes to नारद.

305 स.वि.p.122.

306 अपरार्क p.692, स्मृतिच.III.151, व्य.मा.p.314 (reads तद्दिव्यैःandलेख्ये धर्मः), स.वि.p.123

307 अपरार्क p.692 (reads तद्युक्ति and न साक्षिशपथैः क्वचित्), स्मृतिच.III.p.151, स.वि.p.123 (तद्युक्तः प्रति), टोडरानन्द (reads like अपरार्क).

308 स्मृतिच.III.148, व्य.मा.p.339, वीर.p.197.

309-310 स्मृतिच.III.p.152.

311 परा.मा.III.p.138 (reads असम्यग्भावितः), स्मृतिच.III.p.150.

312 अपरार्क p.687, स्मृतिच.III.138.

313 स्मृतिच.III.p.153, स.वि.p.124, (reads स्थिरा भुक्तिः सल्लेख्या संमता).

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रथ्यानिर्गमनद्वारेजलवाहादिसंशये।
भुक्तिरेव तु गुर्वी स्यात् प्रमाणेष्विति निश्चयः।।३१४

अनुमानाद् गुरुः साक्षी साक्षिभ्यो लिखितं गुरु।
अव्याहता त्रिपुरुषी भुक्तिरेभ्यो गरीयसी।।३१५

नोपभोगे बलं कार्यमाहर्त्रा तत्सुतेन वा।
पशुस्त्रीपुरुषादीनामिति धर्मो व्यवस्थितः।।३१६

भुक्तिस्तु द्विविधा प्रोक्ता सागमानागमा तथा।
त्रिपूरुषी या स्वतन्त्रा सा चेदल्पा तु सागमा।।३१७

मुख्या पैतामही भुक्तिः पैतृकी चापि संमता।
त्रिभिरेतैरविच्छिन्ना स्थिरा षष्ट्याब्दिकी मता।।३१८

सागमेन तु भुक्तेन सम्यग्भुक्तं यदा तु यत्।
आहर्ता लभते तत्तु नापहार्यं तु तत्क्वचित्।।३१९

प्रनष्टागमलेख्येन भोगारूढेन वादिना।
कालः प्रमाणं दानं च कीर्तनीयानि संसदि।।३२०

स्मार्तकाले क्रिया भूमेः सागमा भुक्तिरिष्यते।
अस्मार्तेऽनुगमाभावात् क्रमात्त्रिपुरुषागता।।३२१

आदौ तु कारणं दानं मध्ये भुक्तिस्तु सागमा।
कारणं भुक्तिरेवैका संतता या त्रिपौरुषी।।३२२

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314 स्मृतिच.III.p.153, परा.मा.III.p.146, स.वि.p.124, (reads रथ्यादिनगरद्वार). परा.मा. reads रथ्यानिर्गमनद्वारे जलवाहादिसंश्रये.

315 व्य.मा.p.313.

316 मिता on या II.24, स्मृतिच.III.155, परा.मा.III.p.147, स.वि.p.126.

317 स्मृतिच.III.p.167, (which reads स्वतन्त्रानागमाल्पा तु सागमा). परा.मा.III.p.141.

318 अपरार्क p.148, वीर.p.206, कृत्यकल्पतरु.

319 व्य.मा.p.345 and टोडरानन्द, both ascribes to विष्णु and कात्यायन compare विष्णुधर्मसूत्र. v.181.

320 स्मृतिच.III.p.162, परा.मा.III.p.140, स.वि.p.130.

321 मिता on या II.24, अपरार्क p.636, (ascribes to स्मृत्यन्तर), व्य.मा.p.346, (अस्मार्तकालेनुगमात् भावात्?), परा.मा.III.p.142 (first half), स.वि.p.133, स्मृतिच.III.p.163, वीर.p.204, (ascribes to नारद).

322 अपरार्क p.636, परा.मा.III.p.146, व्य.मा.p.344 and वीर.p.206, ascribe to नारद. व्य.मा. reads आधौ तु. All except अपरार्क read चिरन्तनी for त्रिपौरुषी.

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आहर्ता भुक्तियुक्तोऽपि लेख्यदोषान्वशाधयेत्।
तत्सुतो भुक्तिदोषांस्तु लेख्यदोषांस्तु नाप्नुयात्।।३२३

येनोपात्तं हि यद्द्रव्यं सोऽभियुक्तस्तदुद्धरेत्।
चिरकालोपभोगेऽपि भुक्तिस्तस्यैव नेष्यते।।३२४

चिरन्तनमविज्ञातं भोगं लोभान्न चालयेत्।।३२५

पित्रा भुक्तं तु यद्द्रव्यं भुक्त्याचारेण धर्मतः।
तस्मिन्प्रेते न वाच्योऽसौ भुक्त्या प्राप्तं हि तस्य तत्।।३२६

त्रिभिरेव तु या भुक्ता पुरुषैर्भू यथाविधि।
लेख्याभावेऽपि तां तत्र चतुर्थः समवाप्नुयात्।।३२७

यथा क्षीरं जनयति दधि कालाद्रसान्वितम्।
दानहेतुस्तथा कालाद्भोगस्त्रिपुरुषागतः।।३२८

भुक्तिर्बलवती शास्त्रे सन्तता या चिरन्तनी।
विच्छिन्नापि तु सा ज्ञेया या तु पूर्वप्रसाधिता।।३२९

न भोगं कल्पयेत् स्त्रीषु देवराजधनेषु च।
बालश्रोत्रियवित्ते च मातृतः पितृतः क्रमात्।।३३०

ब्रह्मचारी चरेत्कश्चिद्व्रतं षट्त्रिंशदाब्दिकम्।
अर्थार्थी वान्यविषये दीर्घकालं वसेन्नरः।।३३१

समावृत्तोऽव्रती कुर्यात्स्वधनान्वेषणं ततः।
पञ्चाशदाब्दिको भोगस्तद्धनस्यापहारकः।।३३२

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323 स्मृतिच.III.p.164, परा.मा.III.p.145.

324 व्य.मा.p.343.

325 स्मृतिच.III.168.

326 टोडरानन्द.

327 व्य.मा.p.341 and टोडरानन्द (both ascribe to विष्णु and कात्यायन). compare विष्णुधर्मसूत्र. v.187.

328 व्य.मा.p.350.

329 कृत्यकल्पतरु, परा.मा.III.p.145, (ascribes to बृहस्पति).

330 कृत्यकल्पतरु, व्य.मा.p.351, (reads श्रोत्रियवृद्धे च प्राप्तेपि पितृतः), टोडरानन्द (प्राप्ते च पितृतः), स्मृतिच.III.p.158.

331-332 परा.मा.III.p.148, स्मृतिच.III.p.158 (ascribes to नारद).

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प्रतिवेदं द्वादशाब्दः कालो विद्यार्थिनां स्मृतः।
शिल्पविद्यार्थिनां चैव ग्रहणान्तः प्रकीर्तितः।।३३३

सुहृद्भिर्बन्धुभिश्चैषां यत्स्वं भुक्तमपश्यताम्।
नृपापराधिनां चैव न तत्कालेन हीयते।।३३४

सनाभिभिर्बान्धवैश्च यद्भुक्तं स्वजनैस्तथा।
भोगात्तत्र न सिद्धिः स्याद्भोगमन्यत्र कल्पयेत्।।३३५

२८ (युक्तिः) ३३६-३३८

अर्थिनाभ्यर्थितो यस्तु विघातं न प्रयोजयेत्।
त्रिचतुः पञ्चकृत्वो वा परतस्तद्दणी भवेत्।।३३६

दानं प्रज्ञापना भेदः सम्प्रलोभक्रिया च या।
चित्तापनयनं चैव हेतवो हि विभावकाः।।३३७

एषामन्यतमो यत्र वादिना भावितो भवेत्।
मूलक्रिया तु तत्र स्याद्भावितो वादिनिह्नवे।।३३८

२९ (साक्षिणः) ३३९-३७७

न कालहरणं कार्यं राज्ञा साक्षिप्रभाषणे।
महान्दोषो भवेत्कालाद्धर्मव्यावृत्तिलक्षणः।।३३९

उपस्थितान् परीक्षेत साक्षिणो नृपतिः स्वयम्।
साक्षिभिर्भाषितं वाक्यं सभ्यैः सह परीक्षयेत्।।३४०

सम्यक्क्रियापरिज्ञाने देयः कालस्तु साक्षिणाम्।
संदिग्धं यत्र साक्ष्यं स्यात्सद्यः स्पष्टं विवादयेत्।।३४१

333-334 परा.मा.III.p.148, स्मृतिच.III.p.159 (ascribes to नारद) reads यत्सम्भुक्तम्.

335 अपरार्क p.637, व्य.मा.p.351, (reads सनामैः and अन्येषु), वीर.p.221.

336 वीर.p.224.

337-338 कृत्यकल्पतरु (reads वादिनो and भावितैर्वापि), टोडरानन्द, वीर.p.224-225.

339 व्य.मा.p.306 (reads कालग्रहणं), 328, स.वि.p.148 (reads काले), स्मृतिच.III.p.214, टोडरानन्द.

340 वीर.p.165, (first half), व्य.मा.p.331, अपरार्क p.675, मिता.on या.II.80 (latter half).

341 अपरार्क p.677 (reads सद्यः पृष्टं), स्मृतिच.III.p.213, स.वि.p.148 (reads पत्रसाक्ष्यं तु स्पष्टं सद्यो), टोडरानन्द (reads स्पृष्टं).

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सभान्तः साक्षिणः सर्वानर्थिप्रत्यर्थिसंनिधौ।
प्राड्विवाको नियुञ्जीत विधिनानेन सान्त्वयन्।।३४२

यद्द्वयोरनयोर्वेत्थ कार्येऽस्मिंश्चेष्टितं मिथः।
तद्ब्रूत सर्वं सत्येन युष्माकं ह्यत्र साक्षिता।।३४३

देवब्राह्मणसान्निध्ये साक्ष्यं पृच्छेद्दतं द्विजान्।
उदङ्मुखान्प्राङ्मुखान्वा पूर्वाह्णे वै शुचिः शुचीन्।।३४४

आहूय साक्षिणः पृच्छेन्नियम्य शपथैर्भृशम्।
समस्तान्विदिताचारान् विज्ञातार्थान्पृथक् पृथक्।।३४५

अर्थिप्रत्यर्थिसान्निध्यादनुभूतं तु यद्भवेत्।
तद्ग्राह्यं साक्षिणो वाक्यमन्यथा न बृहस्पतिः।।३४६

प्रख्यातकुलशीलाश्च लोभमोहविवर्जिताः।
आप्ताः शुद्धा विशिष्टा ये तेषां साक्ष्यमसंशयम्।।३४७

विभाव्यो वादिना यादृक् सदृशैरेव भावयेत्।
नोत्कृष्टश्चापकृष्टस्तु साक्षिभिर्भावयेत्सदा।।३४८

लिङ्गिनः श्रेणिपूगाश्च वणिग्व्रातास्तथापरे।
समूहस्थाश्च ये चान्ये वर्गास्तानब्रवीद्भृगुः।।३४९

दासचारणमल्लानां हस्त्यश्वायुधजीविनाम्।
प्रत्येकैकं समूहानां नायका वर्गिणस्तथा।।
तेषां वादः स्ववर्गेषु वर्गिणस्तेषु साक्षिणः।।३५०

स्त्रीणां साक्ष्यं स्त्रियः कुर्युर्द्विजानां सदृशा द्विजाः।
शूद्राश्च सन्तः शूद्राणामन्त्यानामन्त्ययोनयः।।३५१

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342 मिता.on या II.73, वीर.p.167, अपरार्क p.675, (on name), परा.मा.III.p.107, (ascribes to मनु), व्य.मा.ascribes this the next two to मनु and कात्यायन.

343 वीर.p.167, अपरार्क p.675, (no name), परा.मा.III.p.108 (ascribes to मनु).

344 मिता.on या II.73, वीर.p.167, अपरार्क p.673, and परा.मा.III.p.111, (both cites as मनु).

345 मिता.on या II.73, अपरार्क p.674 (ascribes to नारद).

346 व्य.मा.p.317 (reads अन्यथाह) टोडरानन्द, वीर.p.142.

347 स्मृतिच.III.p.174, वीर.p.142, (reads शिष्टा and तेषां वाक्य).

348 वीर.p.149.

349-350 अपरार्क p.666, वीर.p.149, टोडरानन्द (reads मुनिः for भृगुः).

351 टोडरानन्द (ascribes to कात्यायन and मनु). व्य.मा.p.323 (to both मनु and कात्या). This is मनु 8.63.

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अशक्य आगमो यत्र विदेशप्रतिवासिनाम्।
त्रैविद्यप्रहितं तत्र लेख्यसाक्ष्यं प्रवादयेत्।।३५२

अभ्यन्तरस्तु निक्षेपे साक्ष्यमेकोऽपि वाच्यते।
अर्थिना प्रहितः साक्षी भवत्येकोऽपि दूतकः।।३५३

संस्कृतं येन यत्पण्यं तत्तेनैव विभावयेत्।
एक एव प्रमाणं स विवादे तत्र कीर्तितः।।३५४

लेखकः प्राड्विवाकश्च सभ्याश्चैवानुपूर्वशः।
नृपे पश्यति यत्कार्यं साक्षिणः समुदाहृताः।।३५५

अन्ये पुनरनिर्दिष्टाः साक्षिणः समुदाहृताः।
ग्रामश्च प्राड्विवाकश्च राजा च व्यवहारिणाम्।३५६

कार्येष्वभ्यन्तरो यश्चार्थिना प्रहितश्च यः।
कुल्याः कुलविवादेषु भवेयुस्तेऽपि साक्षिणः।।३५७

रिक्थभागविवादे तु संदेहे समुपस्थिते।
कुल्यानां वचनं तत्र प्रमाणं तद्विपर्यये।।३५८

साक्षिणां लिखितानां तु निर्दिष्टानां च वादिना।
तेषामेकोऽन्यथावादी भेदात्सर्वे न साक्षिणाः।।३५९

अन्येन हि कृतः साक्षी नेवान्यस्तं विवादयेत्।
तदभावे नियुक्तो वा बान्धवो वा विवादयेत्।।३६०

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352 अपरार्क p.667, (reads विदेशं प्रतिवादिनाम्) टोडरानन्द.

353 व्य.मा.p.319, (अभ्यन्तरर्णनिक्षेपे and याचितः for दूतकः), स्मृतिच.III.p.175, परा.मा.III.p.96 (first half) reads आभ्यन्तरस्तु विज्ञेयो and वा वदेत् for वाच्यते, वीर.p.151, (reads याचिते for दूतकः) व्यवहारतत्त्व p.214 reads एकोपि याचिते.

354 स्मृतिच.III.p.73, (reads संस्तुतं येन संन्यस्तं), वीर.p.151, व्यवहारत्त्व p.214.

355 व्य.मा.p.320, 323 टोडरानन्द.

356 व्य.मा.p.320 and टोडरानन्द (both ascribes it to नारद and कात्यायन), व्यवहारतत्त्व .p.219 (ascribes to मनु and कात्यायन).

357 व्य.मा.p.320 (ascribes to नारद and कात्यायन), व्यवहारतत्त्व p.219 (ascribes to मनु and कात्यायन)

358 व्य.मा.p.322.

359 अपरार्क p.670, स्मृतिच.III.p.189, व्य.मा.p.325, परा.मा.III.p.116, व्यवहारतत्त्व p.215.

360 अपरार्क p.670, व्य.मा.p.327, स्मृतिच.III.p.189.

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तद्वृत्तिजीविनो ये च तत्सेवाहितकारिणः।
तद्बन्दुसुहृदो भृत्या आप्तास्ते तु न साक्षिणः।।३६१

मातृष्वसृसुताश्चैव सोदर्यासुतमातुलाः।
एते सनाभयस्तूक्ताः साक्ष्यं तेषु न योजयेत्।।३६२

कुल्याः संबन्धिनश्चैव विवाह्यो भगिनीपतिः।
पिता बन्धुः पितृव्यश्च श्वशुरो गुरवस्तथा।।३६३

नगरग्रामदेशेषु नियुक्ता ये पदेषु च।
वल्लभाश्च न पृच्छेयुर्भक्तास्ते राजपूरुषाः।।३६४

ऋणादिषु परीक्षेत साक्षिणः स्थिरकर्मसु।
साहसात्ययिके चैव परीक्षा कुत्रचित् स्मृता।।३६५

व्याघातेषु नृपाज्ञायाः संग्रहे साहसेषु च।
स्तेयपारुष्ययोश्चैव न परीक्षेत साक्षिणः।।३६६

अन्तर्वेश्मनि रात्रौ च बहिर्ग्रामाच्च यद्भवेत्।
एतेष्वेवाभियोगश्चेन्न परीक्षेत साक्षिणः।।३६७

न साक्ष्यं साक्षिभिर्वाच्यमपृष्टैरर्थिना सदा।
न साक्ष्यं तेषु विद्येत स्वयमात्मनि योजयेत्।।३६८

लेख्यारूढश्चोत्तरश्च साक्षी मार्गद्वयान्वितः।।३६९

अथ स्वहस्तेनारूढस्तिष्ठंश्चैकः स एव तु।
न चेत् प्रत्यभिजानीयात् तत् स्वहस्तैः प्रसाधयेत्।।३७०

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361 अपरार्क p.669, स्मृतिच.III.p.175, व्य.मा.p.324, वीर.p.160.

362-363 अपरार्क.p.669-670, व्य.मा.p.324, make one verse by omitting सोदर्यासुत ... संबन्धिनश्चैव, स्मृतिच.III.p.180, परा.मा.III.p.99, (omits the line कुल्याः...पतिः), वीर.p.160 (adds after मातृष्वसुः सुताश्चैव the words पितृष्वसृसुतास्तथा। मातुलस्य सुताश्चैव).

364 स्मृतिच.III.p.180, अपरार्क p.670, परा.मा.III.p.100.

365 स्मृतिच.III.p.183, व्य.मा.p.327, (reads परीक्षा न क्वचिन्मता), वीर.p.162, व्यवहारतत्त्व .p.214.

366 अपरार्क p.670, स्मृतिच.III.p.183, व्य.मा.p.328.

367 अपरार्क p.671, व्य.मा.p.328.

368 व्य.मा.p.326.

369 स्मृतिच.III.p.184.

370 वीर.p.147.

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अर्थिना स्वयमानीतो यो लेख्ये संनिवेश्यते।
स साक्षी लिखितो नाम स्मारितः पत्रकाद्दते।।३७१

यस्तु कार्यप्रसिद्ध्यर्थं दृष्ट्वा कार्यं पुनः पुनः।
स्मार्यते ह्यर्थिना साक्षी स स्मारित इहोच्यते।।३७२

प्रयोजनार्थमानीतः प्रसङ्गादागतश्च यः।
द्वौ साक्षिणौ त्वलिखितौ पूर्वपक्षस्य साधकौ।।३७३

अर्थिना स्वार्थसिद्ध्यर्थं प्रत्यर्थिवचनं स्फुटम्।
यः श्रावितः स्थितो गूढो गूढसाक्षी स उच्यते।।३७४

साक्षिणामपि यः साक्ष्यमुपर्युपरि भाषते।
श्रवणाच्छ्रावणाद्वापि स साक्ष्युत्तरसंज्ञितः।।३७५

उल्लाप्यं यस्य विश्रम्भात्कार्यं वा विनिवेदितम्।
गूढचारी स विज्ञेयः कार्यमध्यगतस्तथा।।३७६

अर्थी यत्र विपन्नः स्यात्तत्र साक्षी मृतान्तरः।
प्रत्यर्थी च मृतो यत्र तत्राप्येवं प्रकल्प्यते।।३७७

३० (साक्षिदोषोद्भावनम्) ३७८-४०१

लेख्यदोषास्तु ये केचित् साक्षिणां चैव ये स्मृताः।
वादकाले तु वक्तव्याः पश्चादुक्तान्न दूषयेत्।।३७८

उक्तेऽर्थे साक्षिणो यस्तु दूषयेत् प्रागदूषितान्।
न च तत्कारणं ब्रूयात् प्राप्नुयात् पूर्वसाहसम्।।३७९

नातथ्येन प्रमाणं तु दोषेणैव तु दूषयेत्।
मिथ्याभियोगे दण्ड्यः स्यात्साध्यार्थाच्चापि हीयते।।३८०

371-372 मिता.on या II.68, वीर.p.143.

373-375 मिता.on या II.68, वीर.p.143-144, स.वि.p.142.

376-377 टोडरानन्द.

378 स्मृतिच.III.p.192, टोडरानन्द, स.वि.p.143, अपरार्क p.672 and व्य.मा.p.39 and वीर.p.164 ascribe it to बृहस्पति. टोडरानन्द reads पश्चाद्वक्ता न.

379 अपरार्क p.673, व्य.मा.p.327, स्मृतिच.III.p.192, स.वि.p.144, टोडरानन्द reads न तत्र कारणं). व्य.मा.p.39, वीर.p.164.

380 अपरार्क p.671, स्मृतिच.III.p.192, स.वि.p.144, वीर.p.164.

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प्रत्यर्थिनार्थिना वापि साक्षिदूषणसाधने।
प्रस्तुतार्थोपयोगित्वाद् व्यवहारान्तरं न च।।३८१

साक्षिदोषाः प्रवक्तव्याः संसदि प्रतिवादिना।
पत्रे विलिख्य तान्सर्वान् वाच्यः प्रत्युत्तरं ततः।।३८२

प्रतिपत्तौ तु साक्षित्वमर्हन्ति न कदाचन।
अतोन्यथा भावनीयाः क्रियाग्र प्रतिवादिना।।३८३

अभावयन्धनं दाप्यः प्रत्यर्थी साक्षिणः स्फुटम्।
भाविताः साक्षिणः सर्वे साक्षिधर्मनिराकृताः।।३८४

आकारेङ्गितचेष्टाभिस्तस्य भावं विभावयेत्।
प्रतिवादी भवेद्धीनः सोऽनुमानेन लक्ष्यते।।३८५

कम्पः स्वेदोऽथ वैकल्यमोष्ठशोषाभिमर्शने।
भूलेखनं स्थानहानिस्तिर्यगूर्ध्वनिरीक्षणम्।
स्वरभेदश्च दुष्टस्य चिह्नान्याहुर्मनीषिणः।।३८६

सभान्तः स्थैस्तु वक्तव्यं साक्ष्यं नान्यत्र साक्षिभिः।
सर्वसाक्ष्येष्वयं धर्मो ह्यन्यत्र स्थावरेषु तु।।३८७

अर्थिप्रत्यर्थिसांनिध्ये साध्यार्थस्य च संनिधौ।
प्रत्यक्षं देशयेत्साक्ष्यं परोक्षं न कथंचन।।३८८

अर्थस्योपरि वक्तव्यं तयोरपि विना क्वचित्।
चतुष्पदेष्वयं धर्मो द्विपदस्थावरेषु च।।३८९

तौल्यगणिममेयानामभावेऽपि विवादयेत्।
क्रियाकारेषु सर्वेषु साक्षित्वं न ततोऽन्यथा।।३९०

382-384 परा.मा.III.p.106, मिता.on या II.72 has 384 (reads दूषणं साक्षिणां स्फुटम्). व्य.म.p.38 attribute these to व्या.स.स.वि.p.144 has 384 (and attributes it to कात्या), वीर.p.165, (attributes 384 to व्यास).

385-386 व्य.मा.p.II.312-13, वीर.p.96.

387 स्मृतिच.III.p.206, अपरार्क p.675, परा.मा.III.p.112 (reads नित्यः स्यात्स्थावरेषु च).

388 टोडरानन्द, व्य.मा.p.41.

389 स्मृतिच.III.p.206, परा.मा.III.p.113, व्य.मा.p.41.

390 टोडरानन्द, व्य.मा.p.41.

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वधे चेत् प्राणिनां साक्ष्यं वादयेच्छिवसन्निधौ।
तदभावे तु चिह्नस्य नान्यथैव प्रवादयेत्।।३९१

स्वभावोक्तं वचस्तेषां ग्राह्यं यद्दोषवर्जितम्।
उक्ते तु साक्षिणो राज्ञा न प्रष्टव्याः पुनः पुनः।।३९२

स्वभावेनैव यद्ब्रूयुस्तद्ग्राह्यं व्यावहारिकम्।
अतो यदन्यद्ब्रिब्रूयुर्धर्मार्थं तदपार्थकम्।।३९३

समवेतैस्तु यद्दृष्टं वक्तव्यं तत्तथैव तु।
विभिन्नैकैककार्यं यद्वक्तव्यं तत् पृथक् पृथक्।।३९४

भिन्नकाले तु यत्कार्यं विज्ञातं तत्र साक्षिभिः।
एकैकं वादयेत्तत्र भिन्नकालं तु तद्भुगुः।।३९५

ऋणादिषु विवादेषु स्थिरप्रायेषु निश्चितम्।
ऊने वाऽप्यधिके वाऽर्थे प्रोक्ते साध्यं न सिध्यति।।३९६

साध्यार्थांशेऽपि गदिते साक्षिभिः सकलं भवेत्।
स्त्रीसङ्गे साहसे चौर्ये यत्साध्यं परिकल्पितम्।।३९७

ऊनाधिकं तु यत्र स्यात् तत्साक्ष्यं तत्र वर्जयेत्।
साक्षी तत्र न दण्ड्यः स्यादब्रुवन् दण्डमर्हति।।३९८

देशं कालं धनं संख्यां रूपं जात्याकृती वयः।
विसंवदेद्यत्र साक्ष्ये तदनुक्तं विदुर्बुधाः।।३९९

निर्दिष्टेष्वर्थजातेषु साक्षी चैत्साक्ष्य आगते।
न ब्रूयादक्षरसमं न तन्निगदितं भवेत्।।४००

ऊनमभ्यधिकं वार्थं विब्रूयुर्यत्र साक्षिणः।
तदप्ययुक्तं विज्ञेयमेष साक्षिविनिश्चयः।।४०१

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391 स्मृतिच.III.p.206, परा.मा.III.p.113, व्य.म.p.41.

392 मिता.on या II.79 (no name), अपरार्क p.675, स्मृतिच.III.p.208.

393 स्मृतिच.III.p.209, परा.मा.III.p.113 (ascribes to मनु). This is मनु 8.78.

394-395 व्य.मा.p.329, (reads विभिन्ने चैव यत्कार्यं), अपरार्क p.675, परा.मा.III.p.113, attributes to वसिष्ठ and reads विभिन्नैरेव तत्कार्यं and विधिरेव प्रकीर्तितः for भिन्नकालं तु &c व्य.म.p.42 and स.वि.p.208 and वीर.p.168 also ascribe to वसिष्ठ and reads as परा.मा. does.

396-397 मिता.on या II.20, अपरार्क p.678, स्मृतिच.III.p.209, व्य.मा.p.312 (has 396 only).

398-399 स्मृतिच.III.p.210, अपरार्क p.678, व्य.मा.p.333 (has 398).

400-401 स.वि.p.147, परा.मा.III.p.114 ascribes the two to बृहस्पति and व्य.म.p.33 ascribes to नारद.

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३१ (साक्षिणां दोषा दण्डाश्च) ४०२-४१०

अपृष्टः सर्ववचने पृष्टस्याकथने तथा।
साक्षिणः सन्निरोद्धव्याः गर्ह्या दण्ड्याश्च धर्मतः।।४०२

वाक्पारुष्ये छले वादे दाप्याः स्युस्त्रिंशतं दमम्।
ऋणादिवादेषु धनं ते स्युर्दाप्या ऋणं यथा।।४०३

यः साक्षी नैव निर्दिष्टो नाऽनूतो नापि दर्शितः।
ब्रूयान्मिथ्येति तथ्यं वा दण्ड्यः सोऽपि नराधमः।।४०४

साक्षी साक्ष्यं न चेद्ब्रूयात् समदण्डं वहेद्ऋणम्।
अतोऽन्येषु विवादेषु त्रिंशतं दण्डमर्हति।।४०५

उक्त्वान्यथा ब्रुवाणाश्च दण्ड्याः स्युर्वाक्छलान्विताः।।४०६

येन कार्यस्य लोभेन निर्दिष्टाः कूटसाक्षिणः।
गृहीत्वा तस्य सर्वस्वं कुर्यान्निर्विषयं ततः।।४०७

यत्र वै भावितं कार्यं साक्षिभिर्वादिना भवेत्।
प्रतिवादी यदा तत्र भावयेत् कार्यमन्यथा।।
बहुभिश्च कुलीनैर्वा पूर्वा स्युः कूटसाक्षिणः।४०८

यदा शुद्धा क्रिया न्यायात्तदा तद्वाक्यशोधनम्।
शुद्धाश्च वाक्याद्यः शुद्धः स शुद्धोऽर्थः इति स्थितिः।।४०९

सप्ताहात्तु प्रतीयेत यत्र साक्ष्यनृतं वदेत्।
रोगोऽग्निर्ज्ञातिमरणं द्विसप्ताहात्त्रिसप्त वा।
षट्चत्वारिंशके वापि द्रव्यजात्यादिभेदतः।।४१०

402-403 स्मृतिच.III.p.212-213, परा.मा.III.p.116 ascribes 402 to प्रजापति.
404 व्य.मा.p.326, टोडरानन्द, व्यवहारतत्त्व p.216, स्मृतिच.III.212 ascribes to वसिष्ठ.
405 अपरार्क p.677, परा.मा.III.p.115, स्मृतिच.III.213, टोडरानन्द.
406 मिता.on.या.II.p.82, स्मृतिच.III.214, वीर.p.184.
407 अपरार्क p.672, स्मृतिच.III.p.217.
408 अपरार्क p.679, व्य.मा.p.335 (read साक्षिभिः पूर्ववादिनां and अनुक्तास्तु कुलीनैर्वा), स्मृतिच.III.p.218, वीर.p.179.
409 मिता.on.या.II.p.80, अपरार्क p.676, व्य.मा.p.336 (which reads क्रिया न स्यात् and last line as शुद्धतायां तु वाक्यार्थः शुद्धः शुद्धोन्यथा न तु), वीर.p.174.
410 स.वि.p.149.

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३२ (दिव्यानि तेषां च विवादपदविषयिणी व्यवस्था) ४११-४२१

न कश्चिदभियोक्तारं दिव्येषु विनियोजयेत्।
अभियुक्ताय दातव्यं दिव्यं दिव्यविशारदैः।।४११
पार्थिवैः शङ्कितानां तु तुलादीनि नियोजयेत्।
आत्मशुद्धिविधाने च न शिरस्तत्र कल्पयेत्।।४१२
लोकापवाददुष्टानां शङ्कितानां च दस्युभिः।
तुलादीनि नियोज्यानि न शिरस्तत्र वै भृगुः।।४१३
न शङ्कासु शिरः कोशे कल्पयेत्तु कदाचन।
अशिरांसि च दिव्यानि राजभृत्येषु दापयेत्।।४१४
शङ्काविश्वाससंधाने विभागे रिक्थिनां सदा।
क्रियासमूहकर्तृत्वे कोशमेव प्रदापयेत्।।४१५
दत्तस्यापह्नवो यत्र प्रमाणं तत्र कल्पयेत्।
स्तेयसाहसयोर्दिव्यं स्वल्पेऽप्यर्थे प्रदापयेत्।।४१६
सर्वद्रव्यप्रमाणं तु ज्ञात्वा हेम प्रकल्पयेत्।
हेमप्रमाणयुक्तं तु तदा दिव्यं नियोजयेत्।।४१७
ज्ञात्वा संख्यां सुवर्णर्णानां शतनाशे विषं स्मृतम्।
अशीतेस्तु विनाशे वै दद्याच्चैव हुताशनम्।।४१८
षष्ट्या नाशे जलं देयं चत्वारिंशति वै घटम्।
विंशद्दशविनाशे वै कोशपानं विधीयते।।४१९
पञ्चाधिकस्य वा नाशे तदर्धार्धस्य तन्दुलाः।
तदर्धार्धस्य नाशे तु स्पृशेत् पुत्रादिमस्तकम्।।४२०
तदर्धार्धस्य नाशे तु लौकिकाश्च क्रियाः स्मृताः।
एवं विचारयन् राजा धर्मार्थाभ्यां न हीयते।।४२१

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411 अपरार्क.p.695, स्मृतिच.III.224, परा.मा.III.p.152 स.वि.p.167, वीर.p.228.
412 स्मृतिच.III.225, परा.मा.III.p.153 (reads निर्दिष्टानां च दस्युभिः। शङ्काशुद्धिपराणां च दिव्यं देयं शिरो विना) वीर.p.229, (which reads mostly like परा.मा).
413 अपरार्क p.696, स्मृतिच.III.226, परा.मा.III.p.153.
414 अपरार्क p.696, (first half), स्मृतिच.III.226, परा.मा.III.p.153.
415 स्मृतिच.III.226, परा.मा.III.p.154, वीर.p.229, स.वि.p.168, अपरार्क p.695 (on name).
416-417 मिता.on.या.II.p.99, अपरार्क p.700, स्मृतिच.III.p.232 (omits the half स्तेय &c). टोडरानन्द, स.वि.p.173, 179, वीर.p.231, स्मृतिच. read सर्वं द्रव्य.
418-421 मिता.on.या.II.p.99, स्मृतिच.p.233 and अपरार्क.p.700 (omits एवं विचारयन्... हीयते), परा.मा.III.p.155, (omits एवं...हीयते), वीर.p.174 and 178 (p.178 pre sents two other verses on same subject शते विषं तु पादोने दत्तभुक्ततृतीयके। आपस्त्रिभागहीने तु शतार्धे तु तुला स्मृता।। कोशदानं तदर्धे वा दशपञ्चकसप्तसु। तदर्धे तण्डुला ज्ञेयास्तदर्धे तप्तमाषकम्।। and ascribes 418-419 to वृद्धमनु).

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३३ (दिव्यानामर्थिप्रत्यर्थिजातिशिल्पानुसारिण्यो व्यवस्था) ४२२-४३३

राजन्येऽग्निर्घटं विप्रे वैश्ये तोयं नियोजयेत्।
सर्वेषु सर्वदिव्यं वा विषवर्जं द्विजोत्तमे।।४२२

गोरक्षकान्वाणिजकांस्तथा कारुकुशीलवान्।
प्रेष्यान्वार्धुषिकांश्चैव ग्राहयेच्छूद्रवद् द्विजान्।।४२३

न लोहशिल्पिनामग्निं सलिलं नाम्बुसेविनाम्।
मन्त्रयोगविदां चैव विषं दद्याच्च न क्वचित्।
तण्डुलैर्न नियुञ्जीत व्रतिनं मुखरोगिणम्।।४२४

कुष्ठिनां वर्जयेदग्निं सलिलं श्वासकासिनाम्।
पित्तश्लेष्मवतां नित्यं विषं तु परिवर्जयेत्।।४२५

मद्यपस्त्रीव्यसनिनां कितवानां तथैव च।
कोशः प्राज्ञैर्न दातव्यो ये च नास्तिकवृत्तयः।।४२६

मातापितृद्विजगुरुबालस्त्रीराजघातिनाम्।
महापातकयुक्तानां नास्तिकानां विशेषतः।।४२७

लिङ्गिनां प्रशठानां तु मन्त्रयोगक्रियाविदाम्।
वर्णसंकरजातानां पापाभ्यासप्रवर्त्तिनाम्।।४२८

एतेष्वेवाभियोगेषु निन्द्येष्वेव च यत्नतः।
दिव्यं प्रकल्पयेन्नैव राजा धर्मपरायणः।।४२९

एतैरेव नियुक्तानां साधूनां दिव्यमर्हति।
नेच्छन्ति साधवो यत्र तत्र शोध्याः स्वकैनरैः।।४३०

422-423 स्मृतिच.III.p.239 (has the latter half of 422), अपरार्क.p.698, टोडरानन्द, वीर. p.235, 237, स.वि.p.180 (verses 423 only).

424 अपरार्क p.699, (reads चैव नाग्निदिव्यं विधीयते), स्मृतिच.III.p.240, परा.मा.III.p.160, (reads व्रतिनां मुखरोगिणाम्), स.वि.p.173, (व्रणिनं), वीर.p.236, व्य.म.p.48.

425-246 स.वि.p.173, मिता.on.या.II.p.98 has 425, but names no author, व्य.म. p.49, has verse 426 but ascribes it to पितामह, वीर.p.237, ascribes both to पितामह.

427-430 स्मृतिच.III.241, परा.मा.III.p.160-161, वीर.p.238, टोडरानन्द, परा.मा. reads प्रशमानां and टोडरानन्द and वीर.read प्रमदानां for प्रशठानां, परा.मा.reads न सन्ति साधवः.

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महापातकयुक्तेषु नास्तिकेषु विशेषतः।
न देयं तेषु दिव्यं तु पापाभ्यासरतेषु च ।।४३१

एषु वादेषु दिव्यानि प्रतिषिद्धानि यत्नतः।
कारयेत्सज्ञनैस्तानि नाभिशस्तं त्यजेन्मनुः।।४३२

अस्पृश्याधमदासानां म्लेच्छानां पापकारिणाम्।
प्रातिलोम्यप्रसूतानां निश्चयो न तु राजनि।
तत्प्रसिद्धानि दिव्यानि संशये तेषु निर्दिशेत्।।४३३

३४ (दिव्यदेशाः) ४३४-४४०

इन्द्रस्थानेऽभिशस्तानां महापातकिनां नृणाम्।
नृपद्रोहे प्रवृत्तानां राजद्वारे प्रयोजयेत्।।४३४

प्रातिलोम्यप्रसूतानां दिव्यं देयं चतुष्पथे।
अतोऽन्येषु सभामध्ये दिव्यं देयं विदुर्बुधाः।।४३५

कालदेशविरोधे तु यथायुक्तं प्रकल्पयेत्।
अन्येन हारयेद्दिव्यं विधिरेष विपर्यये।।४३६

अदेशकालदत्तानि बहिर्वासकृतानि च।
व्यभिचारं सदार्थेषु कुर्वन्तीह न संशयः।।४३७

साधयेत्तत्पुनः साध्यं व्याघाते साधनस्य हि।
दत्तान्यपि यथोक्तानि राजा दिव्यानि वर्जयेत्।।
मूर्खैर्लुब्धैश्च दुष्टैश्च पुनर्देयानि तानि वै।।४३८

तस्माद्यथोक्तविधिना दिव्यं देयं विशारदैः।
अयथोक्तप्रयुक्तं तु न शक्तं तस्य साधने।।४३९

431-432 टोडरानन्द, वीर.p.238, स्मृतिच.III.242 (has 432 only), अपरार्क.p.696 (ascribes 432 to भृगु).

424 मिता.on.या.II.p.99, स्मृतिच.III.p.242, परा.मा.III.p.161, (reads धनदारापहाराणां म्लेच्छानां), वीर.p.238, व्य.म.p.49 (reads समये for संशये).

434-435 मिता.on.या.II.p.99, स्मृतिच.III.242, परा.मा.III.p.161, (reads दण्डस्थाने for इन्द्रस्थाने), टोडरानन्द, स.वि.p.183, वीर.p.241.

436 टोडरानन्द, वीर.p.238.

437-439 अपरार्क.p.697, परा.मा.III.p.163, and वीर.p.241, have only verse 437 which they ascribe to नारद, स्मृतिच.p244 has 437, टोडरानन्द has verse 439 (which ascribes it to बृहस्पति and कात्यायन).

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शिक्यच्छेदे तुलाभङ्गे तथा चापि गुणस्य वा।
शुद्धेस्तु संशये चैव परीक्षेत पुनर्नरम्।।४४०

३५ (अग्निदिव्यविधिः) ४४१

प्रस्खलत्यभियुक्तश्चेत् स्थानादन्यत्र दह्यते।
न दग्धं तं विदुर्देवास्तस्य भूयोऽपि दापयेत्।।४४१

३६ (उदकदिव्यविधिः) ४४१-४४५

शरांस्त्वनायसैरग्रैः प्रकुर्वीत विशुद्धये।
वैणुकाण्डमयांश्चैव क्षेप्ता तु सुदृढं क्षिपेत्।।४४२

क्षिप्ते तु मज्जनं कार्यं गमनं समकालिकम्।
गमने त्वागमः कार्यः पुमानन्यो जले विशेत्।।४४३

शिरोमानं तु दृश्येत न कर्णौ नापि नासिका।
अप्सु प्रवेशने यस्य शुद्धं तमपि निर्दिशेत्।।४४४

निमज्योत्प्लवते यस्तु दृष्टश्चेत्प्राणिभिर्नरः।
पुनस्तत्र निमज्जेत्स देशचिह्नविभाविते।।४४५

३७ (विषदिव्यविधिः) ४४६-४५१

अजाशृङ्गनिभं श्यामं सुपीनं शृङ्गसम्भवम्।
भृङ्गे च शृङ्गवेराभं ख्यातं तच्छृङ्गिणां विषम्।।४४६

रक्तं तदसितं कुर्यात् कठिनञ्चैव तत्क्षणात्।
अनेन विधिना ज्ञेयं दिव्यं दिव्यविशारदैः।।४४७

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440 अपरार्क p.704, स्मृतिच.III.259, व्य.म.p.61, वीर.p.254.

441 अपरार्क p.709, मिता.on.या.II.p.107, (which reads प्रस्खलन्नभिशस्तश्चेत्), परा.मा.III.p.161, (प्रज्वालेनाभिशस्तश्चेत्), स्मृतिच.III.p.271, वीर.p.267, स.वि.p.199.

442 अपरार्क p.709, मिता.on.या.II.p.109 (no name) reads शरांश्चानायसाग्रांस्तु), टोडरानन्द, व्य.म.p.183 (no name), वीर.p.268, स.वि.p.200

443 अपरार्क p.710, वीर.p.272 (first half).

444-445 अपरार्क.p.711, टोडरानन्द (reads निमज्जेत अङ्गचिह्नविभातिते), वीर.p.278 (has only 444), परा.मा.III.p.186 (has both and read निमज्जंस्तु स सचिह्नविभाविते), स.वि. p.203, (has 444 without name).

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वत्सनाभनिभं पीतं वर्णज्ञानेन निश्चयः।
शुक्तिशङ्खाकृतिर्भङ्गे विद्यात् तद्वत्सनाभकम्।।४४८
मधुक्षीरसमायुक्तं स्वच्छं कुर्वीत तत् क्षणात्।
बाह्यमेवं समाख्यातं लक्षणं धर्मसाधकैः।।४४९
पूर्वाह्णे शीतले देशे विषं दद्यात्तु देहिनाम्।
घृतेन योजितं श्लक्ष्णं पिष्टं त्रिंशद्गुणेन तु।।४५०
विषस्य पलषड्भागाद्भागो विंशतिमस्तु यः।
तमष्टभागहीनं तु शोध्ये देयं घृताप्लुतम्।।४५१

३८ (कोशदिव्यविधिः) ४५२

स्वल्पेऽपराधे देवानां स्नापयित्वायुधोदकम्।
पाय्यो विकारे चाशुद्धो नियम्यः शुचिरन्यथा।।४५२

३९ (तण्डुलविधिः) ४५३-४६१

देवतास्नानपानीय दिव्ये तण्डुलभक्षणे।
शुद्धनिष्ठीवनाच्छुद्धो नियम्योऽशुचिरन्यथा।।४५३
अवष्टम्भाभियुक्तस्य विशुद्धस्यापि कोशतः।
सदण्डमभियोगं च दापयेदभियोजकम्।।
दिव्येन शुद्धं पुरूषं सत्कुर्याद्धार्मिको नृपः।।४५४
शोणितं दृश्यते यत्र हनुवालं च सीदति।
गात्रं च कम्पते यस्य तमशुद्धं विनिर्दिशेत्।।४५५
अथ दैवविसंवादात्त्रिसप्ताहात्तु दापयेत्।
अभियुक्तं तु यत्नेन तमर्थं दण्डमेव च।।४५६

446-448 अपरार्क p.712, टोडरानन्द (read सुपीतं) वीर.p.274 (has all three).
449 अपरार्क p.712, टोडरानन्द, वीर.p.274.
450 मिता.on.या.II.p.111, अपरार्क p.712, परा.मा.III.p.188 and स.वि.p.206 and वीर.p.275 (both read त्रिंशद्गुणान्वितम्).
451 अपरार्क p.713, मिता.on.या.II.p.111, परा.मा.III.p.188 and वीर.p.274 ascribe it to नारद. It is नारद (ऋणादान verse 323).
452 अपरार्क.p.714, टोडरानन्द वीर.p.279 (reads पाययित्वायुधोदकम्).
453 टोडरानन्द and व्य.म.p.83, वीर.p.282-283.
454 टोडरानन्द

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तस्यैकस्य न सर्वस्य जनस्य यदि तद्भवेत्।
रोगोऽग्निर्ज्ञातिमरणमृणं दाप्यो दमं च सः।।४५७

क्षयातिसारविस्फोटास्ताल्वस्थिपरिपीडनम्।
नेत्ररुग्गलरोगश्च तथोन्मादः प्रजायते।
शिरोरुग्भुजभङ्गश्च दैविका व्याधयो नृणाम्।।४५८

शतार्धं दापयेच्छुद्धमशुद्धो दण्डभाग्भवेत्।।४५९
विषे तोये हुताशे च तुलाकोशे च तण्डुले।
तप्तमाषकदिव्ये च क्रमाद्दण्डं प्रकल्पयेत्।।४६०
सहस्रं षट्शतं चैव तथा पञ्च शतानि च।
चतुस्त्रिद्व्येकमेवं च हीनं हीनेषु कल्पयेत्।।४६१

४० (शपथविधिः) ४६२-४६३

यत्रोपदिश्यते कर्म कर्त्तुरङ्गं न तूच्यते।
दक्षिणस्तत्र विज्ञेयः कर्मणां पारगः करः।।४६२
आचतुर्दशकादह्नो यस्य नो राजदैविकम्।
व्यसनं जायते घोरं स ज्ञेयः शपथे शुचिः।।४६३

४१ (उन्मत्तास्वतन्त्रादिकृतानां विचारः) ४६४-४७१

उन्मत्तेनैव मत्तेन तथा भावान्तरेण वा।
यद्दत्तं यत्कृतं वाथ प्रमाणं नैव तद्भवेत्।।४६४
अस्वतन्त्रकृतं कार्यं तस्य स्वामी निवर्तयेत्।
न भर्त्रा विवदेतान्यो भीतोन्मत्तकृतादृते।।४६५

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455 टोडरानन्द (ascribes to both बृहस्पति and कात्यायन), अपरार्क p.715, and व्य.म. p.83 ascribe to पितामह. It is नारद (ऋणादान 342).

456 अपरार्क p.715, स्मृतिच.III.p.273 (reads दैवविसंवादः and अभियुक्तं प्रसन्नेन), व्य.म.p.88.

457 व्य.म.p.88, व्यवहारतत्त्व p.229.

458 स्मृतिच p.273, व्य.म.p.88 (reads ज्वरातीसारविस्फोटगूढास्थि), व्यवहारतत्त्व p.229 (reads ज्वराती as व्य.म.does).

459 मिता.on.या.II.p.113, स्मृतिच.III.p.288, परा.मा.III.p.204 (reads न दण्डं दापयेच्छुद्धं न शुद्धो), टोडरानन्द ascribes to मनु and कात्यायन.

460-461 मिता.on.या.II.p.113, स्मृतिच.III.p.288, परा.मा.III.p.204, टोडरानन्द ascribes to मनु and कात्यायन.

462 वीर.p.287.

463 व्य.म.p.88 (reads शपथैः), वीर.p.287, व्यवहारतत्त्व p.229.

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पिताऽस्वतन्त्रः पितृमान् भ्राता भातृव्य एव वा।
कनिष्ठो वाविभक्तस्वो दासः कर्मकरस्तथा।।४६६

न क्षत्रेगृहदासानां दानाधमनविक्रयाः।
अस्वतन्त्रकृताः सिद्धिं प्राप्नुयुर्नानुवर्णिताः।।४६७

प्रमाणं सर्व एवैते पण्यानां क्रयविक्रये।
यदि संव्यवहारं ते कुर्वन्तोऽप्यनुमोदिताः।।४६८

क्षेत्रादीनां तथैव स्युर्भ्राता भ्रातृसुतः सुतः।
निसृष्टाः कृत्यकरणे गुरुणा यदि गच्छता।।४६९

निसृष्टार्थस्तु यो यस्मिन् तस्मिन्नर्थे प्रभुस्तु सः।
तद्भर्ता तत्कृतं कार्यं नान्यथा कर्तुमर्हति।।४७०

सुतस्य सुतदाराणां वशित्वं त्वनुशासने।
विक्रये चैव दाने च वशित्वं न सुते पितुः।।४७१

४२ (निर्णयकृत्यम्) ४७२-४७६

शुद्धिस्तु शास्त्रतत्त्वज्ञैश्चिकित्सा समुदाहृता।
प्रायश्चित्तं च दण्डं च ताभ्यां सा द्विविधा स्मृता।।४७२

अनेकार्थाभियोगेऽपि यावत्संसाधयेद्धनी।
साक्षिभिस्तावदेवासौ लभते साधितं धनम्।।४७३

सर्वापलापं यः कृत्वा मिथोऽल्पमपि संवदेत्।
सर्वमेव तु दाप्यः स्यादभियुक्तो बृहस्पतिः।।४७४

एवं धर्मासनस्थेन समेनैव विवादिना।
कार्याणां निर्णयो दृश्यो ब्राह्मणैः सह नान्यथा।।४७५

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464 स्मृतिच.III.p.305, परा.मा.III.p.216 (reads वाचान्तरेण for भावान्तरेण).
465 स्मृतिच.III.p.306, स.वि.p.501-502 (reads न वार्ता दिवदेतान्यो?)
466 टोडरानन्द, वीर.p.128.
467-471 स्मृतिच III.p.307-309, परा.मा.III.p.217-219 (has all five except 470), टोडरानन्द (reads नानुपादिताः for नानुवर्णिताः in 467), वीर.p.126-128.
472 स्मृतिच.III.p.300, स.वि.p.502.
473 मिता.onया.II.20, अपरार्क.p.625, व्य.मा.p.312 (reads नाधिकं धनम्), स्मृतिच.III.p.283, परा.मा.III.p.203, वि.र.p.48, वीर.p.132.

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व्यवहारान्स्वयं दृष्ट्वा श्रुत्वा वा प्राड्विवाकतः।
जयपत्रं ततो दद्यात् परिज्ञानाय पार्थिवः।।४७६

४३ (दण्डविधिः) ४७७-४९४

राजा तु स्वामिने विप्रं सान्त्वेनैव प्रदापयेत्।
देशाचारेण चान्यांस्तु दुष्टान् संपीड्य दापयेत्।।४७७

रिक्थिनं सुहृदं वापि च्छलेनैव प्रदापयेत्।
वणिजः कर्षकांश्चापि शिल्पिनश्चाब्रवीद्भृगुः।।४७८

धनदानासहं बुध्वा स्वाधीनं कर्म कारयेत्।
अशक्तौ बन्धनागारं प्रवेश्यो ब्राह्मणादृते।।४७९

कर्षकान् क्षत्रविट्शूद्रान् समीहानांस्तु दापयेत्।।४८०

आचार्यस्य पितुर्मातुर्बान्धवानां तथैव च।
एतेषामपराधेषु दण्डो नैव विधीयते।।४८१

प्राणात्यये तु यत्र स्यादकार्यकरणं कृतम्।
दण्डस्तत्र तु नैव स्यादेष धर्मो भृगुस्मृतः।।४८२

न जातु ब्राह्मणं हन्यात्सर्वपापेष्ववस्थितम्।
राष्ट्राच्चैनं बहिः कुर्यात्समग्रधनमक्षतम्।।४८३

चतुर्णामपि वर्णानां प्रायश्चित्तमकुर्वताम्।
शारीरधनसंयुक्तं दण्डं धर्म्यं प्रकल्पयेत्।।४८४

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474 व्य.मा.p.311 (reads मिथ्याल्पमपि and दाप्यं स्यादिति युक्तो), स्मृतिच.III.p.283.
475 स्मृतिच.III.p.289.
476 टोडरानन्द.
477 मिता.on.या.II.40, अपरार्क.p.645 (reads स्वामिनो), स्मृतिच.III.p.285, परा.मा.p.200.
478 मिता.on.या.II.40, (first half only), अपरार्क.p.645 (first half only),परा.मा.III.p.200 and 256, स्मृतिच.III.p.284, (first half). अपरार्क reads छलेन न च दापयेत्.
479 मिता.on.या.II.26, अपरार्क.p.633 (reads बद्ध्वा स्वामिनः कर्म), स्मृतिच.III.p.292 and 390, परा.मा.III.p.209.
480 स्मृतिचय III.p.384.
481 स्मृतिचय III.p.296, परा.मा.III.p.206.
482 स्मृतिचय III.p.297, परा.मा.III.p.211 (read दण्डं तत्र).

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येन दोषेण शूद्रस्य दण्डो भवति धर्मतः।
तेन चेत्क्षत्रविप्राणां द्विगुणो द्विगुणो भवेत्।।४८५

प्रव्रज्यावसितं शूद्रं जपहोमपरायणम्।
वधेन शासयेत् पापं दण्ड्यो वा द्विगुणं दमम्।।४८६

सर्वेषु चापराधेषु पुंसो योऽर्थदमः स्मृतः।
तदर्धं योषितो दद्युर्वधे पुंसोऽङ्गकर्तनम्।।४८७

नास्वतन्त्राः स्त्रियो ग्राह्याः पुमांस्तत्रापराध्यति।
प्रभुणा शासनीयास्ता राजा तु पुरुषां नयेत्।।४८८

प्रोषितस्वामिका नारी प्रापिता यद्यपि ग्रहे।
तावत्सा बन्धने स्थाप्या यावत्प्रत्यागतः प्रभुः।।४८९

कल्पितो यस्य यो दण्डस्त्वपराधस्य यत्नतः।
पणानां ग्रहणं तु स्यात्तन्मूल्यं वाथ राजनि।।४९०

माषपादो द्विपादो वा दण्डो यत्र प्रवर्त्तितः।
अनिर्द्दिष्टं तु विज्ञेयं माषकं तु प्रकल्पयेत्।।४९१

यत्रोक्तो माषकैर्दण्डो राजतं तत्र निर्दिशेत्।
कृष्णलैश्चोक्तमेव स्यादुक्तदण्डविनिश्चयः।।४९२

माषो विंशतिभागस्तु ज्ञेयः कार्षापणस्य तु।
काकणी तु चतुर्भागा माषकस्य पणस्य च।।४९३

पञ्चनद्याः प्रदेशे तु संज्ञेयं व्यावहारिकी।
कार्षापणोण्डिका ज्ञेयास्ताश्चतस्रस्तु धानकः।
ते द्वादश सुवर्णास्तु (र्णस्तु?) दीनारश्चित्रकः स्मृतः।।४९४

483-484 परा.मा.III.p.208, Verse 483 is मनु 8.380.
485 स्मृतिचय III.p.298, परा.मा.III.p.211 ascribes to पितामह.
486 स्मृतिचय III.p.298, परा.मा.III.p.212 ascribes to पितामह.
487 स्मृतिचय III.p.745, व्य.म.p.246
488 स्मृतिचय III.p.749.
489 स्मृतिचय III.p.749.
490-492 स्मृतिचय III.p.299, कुल्लूक on मनु.8-319 reads 491 (latter half) as यन्निर्दिष्टं तु सौवर्णं माषं तत्र प्रकल्येत्.
493-494 स्मृतिचय III.p.231, वीर.p.235 (only 493).

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४४ (पुनर्न्यायः) ४९५-४९६

असत्सदिति यः पक्षः सभ्यैरेवावधार्यते।
तीरितः सोऽनुशिष्टस्तु साक्षिवाक्यात् प्रकीर्तितः।।४९५

कुलादिभिर्निश्चितेऽपि सन्तोषं न गतस्तु यः।
विचार्य तत् कृतं राजा कुकृतं पुनरुद्धरेत्।।४९६

४५ (ऋणादाने वृद्धिविचारः) ४९६-५०१

न स्त्रीभ्यो दासबालेभ्यः प्रयच्छेत्कचिदुद्धृतम्।
दाता न लभते तत्तु तेभ्यो दद्यात्तु यद्वसु।।४९७

ऋणिकेन तु या वृद्धिरधिका संप्रकल्पिता।
आपत्कालकृता नित्यं दातव्या कारिता तु सा।।
अन्यथा कारिता वृद्धिर्न दातव्या कथंचन।।४९८

एकान्तेनैव वृद्धिं तु शोधयेद्यत्र चर्णिकम्।
प्रतिकालं ददात्येव शिखावृद्धिस्तु सा स्मृता।।४९९

गृहात्तोषः फलं क्षेत्राद् भोगलाभः प्रकीर्तितः।।५००

आधिभोगस्त्वशेषो यो वृद्धिस्तु परिकल्पितः।
प्रयोगो यत्र चैवं स्यादाधिभोगः स उच्यते।।५०१

४६ (अकृतवृद्धिः) ५०२-५०८

यो याचितकमादाय तमदत्त्वा दिशं व्रजेत्।
ऊर्ध्वं संवत्सरात्तस्य तद्धनं वृद्धिमान्नुयात्।।५०२

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495 स्मृतिच.III.p.302, परा.मा.III.p.214 (सभ्यै राज्ञावधार्यते).
496 टोडरानन्द and वीर.p.123 (both ascribes to बृहस्पति and कात्यायन).
497 स्मृतिच.III.p.321, वि.र.p.6 (reads किचिदुद् धृतम्), परा.मा.III.p.254 (reads क्वचिदुद् धृतः) वि.चि.p.2.
498 स्मृतिच.III.p.359, कुल्लूक on मनु 8.153), वि.र.p.10, वि.चि.p.4, स.वि.p.223.
499 स्मृतिच.III.p.360, स.वि.p.223, वीर.p.295 (latter half).
500 स्मृतिच.III.p.360, वीर.p.295, which notices that अपरार्क reads गृहात्स्तोमः शदः क्षेत्रात्. स्मृतिच. ascribes it to बृहस्पति and reads शदः क्षेत्रात्.
501 स्मृतिच.III.p.360, (reads वृद्धिं तु) वि.र.p.12, वि.चि.p.4, वीर.p.295.

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कृत्वोद्धारमदत्त्वा यो याचितस्तु दिशं व्रजेत्।
ऊर्ध्वं मासत्रयात्तस्य तद्धनं वृद्धिमाप्नुयात्।।५०३

स्वदेशेऽपि स्थितो यस्तु न दद्याद्याचितः क्वचित्।
तं ततोऽकारितां वृद्धिमनिच्छन्तं न दापयेत्।।५०४

प्रीतिदत्तं न वर्धेत यावन्न प्रतियाचितम्।
याच्यमानमदत्तं चेद्वर्धते पञ्चकं शतम्।।५०५

निक्षिप्तं वृद्धिशेषं च क्रयविक्रयमेव च।
याच्यमानमदत्तं चेद्वर्धते पञ्चकं शतम्।।५०६

पण्यं गृहीत्वा यो मूल्यमदत्त्वैव दिशं व्रजेत्।
ऋतुत्रयस्योपरिष्टात्तद्धनं वृद्धिमाप्नुयात्।।५०७

चर्मसस्यासवद्यूते पण्यमूल्ये च सर्वदा।
स्त्रीशुल्केषु न वृद्धिः स्यात्प्रातिभाव्यागतेषु च।।५०८

४७ (वृद्धेः परिमाणम्) ५०९-५१२

ग्राह्यं स्याद् द्विगुणं द्रव्यं प्रयुक्तं धनिनां सदा।
लभते चेन्न द्विगुणं पुनर्वृद्धिं प्रकल्पयेत्।।५०९

मणिमुक्ताप्रवालानां सुवर्णरजतस्य च।
तिष्ठति द्विगुणा वृद्धिः फालकैटाविकस्य च।।५१०

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502 मिता (on या II.p.88), स्मृतिच.III.p.364, परा.मा.III.p.223, वि.र.p.16 (reads ऋतुत्रयस्योपरिष्टात्), स.वि.p.225, वीर.p.301.

503 मिता on या II.p.38 अपरार्क p.642 (reads ऋतुत्रयस्योपरिष्टात् for ऊर्ध्वं &c). वि.र.p.15, परा.मा.III.p.223, वीर.p.302.

504 मिता on या II.p.38 अपरार्क p.642 (reads याचितोऽसकृत् and स भर्त्राकारितो...च्छन्नपि चावहेत्), स्मृतिच.III.p.364, वि.र.p.16, (reads याचितोसकृत् and स तत्राकारितां...च्छन्नपि चावहेत्), स.वि.p.225, वीर.p.302.

505 स्मृतिच.III.p.365, कुल्लूक (on मनु 8.152), परा.मा.III.p.223, वि.र.p.15, स.वि.p.226.

506 मिता on या II.p.66, परा.मा.III.p.224, वि.र.p.15, वीर.p.302, वि.चि.p.6.

507 स्मृतिच.III.p.363, परा.मा.III.p.224, वि.र.p.15, स.वि.p.225, वीर.p.302.

508 परा.मा.III.p.225, स्मृतिच.III.p.366, वि.र.p.20, स.वि.p.226, वीर.p.304.

509 अपरार्क p.643, वि.र.p.72, वीर.p.338.

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तैलानां चैव सर्वेषां मद्यानामथ सर्पिषाम्।
वृद्धिरष्टगुणा ज्ञेया गुडस्य लवणस्य च।।५११

कुप्यं पञ्चगुणं भूमिस्तथैवाष्टगुणा मता।
सद्य एवेति वचनात् सद्य एव प्रदीयते।।५१२

४८ (ऋणोद्धरणं) ५१३-५१५
(अनेकर्णसमवाये विधिः)

एकाहे लिखितं यत्तु तत्तु कुर्याद्दणं समम्।
ग्रहणं रक्षणं लाभमन्यथा तु यथाक्रमम्।।५१३

नानर्णसमवाये तु यद्यत्पूर्वकृतं भवेत्।
तत्तदेवाग्रतो देयं राज्ञः स्याच्छ्रोत्रियादनु।।५१४

यस्य द्रव्येण यत्पण्यं साधितं यो विभावयेत्।
तद् द्रव्यमृणिकेनैव दातव्यं तस्य नान्यथा।।५१५

४९ (आधिः) ५१६-५२९

द्रव्यं गृहीत्वा वृद्ध्यर्थं भोगयोग्यं ददाति चेत्।
जङ्गमं स्थावरं वापि भोग्याधिः स तु कथ्यते।।
मूल्यं तदाधिकं दत्त्वा स्वक्षेत्रादिकमाप्नुयात्।।५१६

आधिमेकं द्वयोर्यस्तु कुर्यात्का प्रतिपद्धवेत्।
तयोः पूर्वकृतं ग्राह्यं तत्कर्ता चोरदण्डभाक्।।५१७

आधानं विक्रयो दानं लेख्यसाक्ष्यकृतं यदा।
एकक्रियाविरुद्धं तु लेख्यं तत्रापहारकम्।।५१८

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510 वि.र.p.17, स.वि.p.228, वि.र.p.8, व्य.म.p.170.
511 स्मृतिच.III.p.373, परा.मा.III.p.228, वि.र.p.19, स.वि.p.227, वीर.p.299, व्य.म.p.170.
512 स.वि.p.230.
513 अपरार्क p.645, स्मृतिच.III.p.391, स.वि.p.255, वीर.p.339.
514 स्मृतिच.III.p.390, स.वि.p.255, वीर.p.339.
515 अपरार्क p.645, स्मृतिच.III.p.391, परा.मा.III.p.259, स.वि.p.225, वीर.p.340.
516 स.वि.p.226,
517 स्मृतिच.III.p.337, परा.मा.III.p.234 (reads द्वयोः कृत्वा यद्येका) वि.र.p.35 (reads आधाता for तत्कर्ता), स.वि.p.237. (reads कोत्र पतिर्भवेत्), वीर.p.312.

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अनिर्दिष्टं च निर्दिष्टमेकत्र च विलोखितम्।
विशेषलिखितं ज्याय इति कात्यायनोऽब्रवीत्।।५१९

यो विद्यमानं प्रथममनिर्दिष्टस्वरूपकम्।
आकाशभूतमादध्यादनिर्दिष्टं च तद्भवेत्।।
यद्यत्तदास्य विद्येत तदादिष्टं विनिर्दिशेत्।।५२०

यस्तु सर्वस्वमादिश्य प्राक् पश्चान्नामचिह्नितम्।
आदध्यात्तत्कथं न स्याच्चिह्नितं बलवत्तरम्।।५२१

मर्यादाचिह्नितं क्षेत्रं ग्रामं वापि यदा भवेत्।
ग्रामादयश्च लिख्यन्ते तदा सिद्धिमवाप्नुयात्।।५२२

आधीकृतं तु यत्किंचिद्विनष्टं दैवराजतः।
तत्रर्णं सोदयं दाप्यो धनिनामधमर्णकः।।५२३

न चेद्धनिकदोषेण निपतेद्वा म्रियेत वा।
आधिमन्यं स दाप्यः स्याद्दणान्मुच्येत नर्णिकः।।५२४

अकाममननुज्ञातमाधिं यः कर्म कारयेत्।
भोक्ता कर्मफलं दाप्यः वृद्धिं वा लभते न सः।।५२५

यस्त्वाधिं कर्म कुर्वाणं वाचा दण्डेन कर्मभिः।
पीडयेद्भर्त्सयेच्चैव प्राप्नुयात् पूर्वसाहसम्।।५२६

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518 स्मृतिच.III.p.338, परा.मा.III.p.234, स.वि.p.237, वीर.p.312, कृत्यकल्पतरु.

519 स्मृतिच.III.p.338, परा.मा.III.p.235, (reads अनिर्दिष्टाच्च निर्दिष्टं), स.वि.p.237, वीर.p.312, कृत्यकल्पतरु.

520 परा.मा.III.p.235, (reads प्रथममनादिष्ट, आकाशभूतमानेन), वीर.p.313, स्मृतिच.III.p.338, (reads अनादिष्टि दध्यादादिष्टं नैव तद्भवेत्).

521 स्मृतिच.III.p.338, (reads कथं तु स्यात्), स.वि.p.238 (reads आदद्यात्तत् कथं तु स्यात्), वीर.p.313.

522 स्मृतिच.III.p.336, स.वि.p.236.

523 स्मृतिच.III.p.321, वि.र.p.27.

524 स्मृतिच.III.p.323, (reads निपतेद्विक्रियेत), वि.र.p.26, स.वि.p.236, (reads स चेद्धनिक and सर्णिकः for नर्णिकः) वि.र.p.11, वीर.p.309.

525 अपरार्क p.659, स्मृतिच.III.p.326, परा.मा.III.p.238, वि.र.p.24, स.वि.p.235, वीर.20 p.308.

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बलादकामं यत्राधिमनिसृष्टं प्रवेशयेत्।
प्राप्नुयात्साहसं पूर्वमाधाता चाधिमाप्नुयात्।।५२७

आधिं दुष्टेन लेख्येन भुंक्ते यमृणिकाद्धनी।
नृपो दमं दापयित्वा आधिलेख्यं विनाशयेत्।।५२८

आधाता यत्र न स्यात्तु धनी बन्धं निवेदयेत्।
राज्ञस्ततः स विख्यातो विक्रेय इति धारणा।।
सवृद्धिकं गृहीत्वा तु शेषं राजन्यथार्पयेत्।।५२९

५० (प्रतिभूविधानम्) ५३०-५४१

दानोपस्थानवादेषु विश्वासशपथाय च।
लग्नकं कारयेदेवं यथायोगं विपर्यये।।५३०

दर्शनप्रतिभूर्यस्तं देशे काले च दर्शयेत्।
निबन्धमावहेत्तत्र दैवराजकृताद्दते।।५३१

नष्टस्यान्वेषणार्थं तु देयं पक्षत्रयं परम्।
यद्यसौ दर्शयेत्तत्र मोक्तव्यः प्रतिभूर्भवेत्।।५३२

काले प्रतीते प्रतिभूर्यदि तं नैव दर्शयेत्।
स तमर्थं प्रदाप्यः स्यात् प्रेते चैवं विधीयते।।५३३

गृहीत्वा बन्धकं यत्र दर्शनेऽस्य स्थितो भवेत्।
विना पित्रा धनं तस्माद् दाप्यः स्यात्तद्दणं सुतः।।५३४

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526 स्मृतिच.III.p.326, परा.मा.III.p.238, वि.र.p.238, वीर.p.308.

527 स्मृतिच.III.p.326, स.वि.p.235.

528 स्मृतिच.III.p.329, स.वि.p.24, वीर.p.310.

529 अपरार्क p.658, स्मृतिच.III.p.333, परा.मा.III.p.241, वि.र.p.34, (reads यत्र नष्टः स्यात्), स.वि.p.245, स.वि.p.245, वि.र.p.11, वीर.p.317.

530 अपरार्क p.655, (reads स्थानविश्वासाविवादशपथाय) स्मृतिच.III.p.347, परा.मा.III.p.249, स.वि.p.247, (reads दासोपस्थान), वीर.p.323.

531 अपरार्क p.655, स्मृतिच.III.p.349, वि.र.p.41, वीर.p.323, व्य.म.p.176, स.वि.p.247 and वीर also at pp.321-322 read देशे काले च दर्शयेत् and connect that half verse with यद्यसौ...भवेत् below.

532-533 मिता on या.II.p.57, अपरार्क p.656 (only 532), स्मृतिच.III.p.348, वि.र.p.42, स.वि.p.248, (reads कालेप्यतीते and ऋणे चैवं विधिः), वीर.pp.323 and 330, परा.मा.III.p.24, (reads काले प्रतीते) स्मृतिच and वीर. also at p.323 reads काले प्रतीतेय.

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यो यस्य प्रतिभूस्तिष्ठेद्दर्शनायेह मानवः।
अदर्शयन्स तं तस्मै प्रयच्छेत्स्वधनादृणम्।।५३५

आद्यौ तु वितथे दाप्यौ तत्कालावेदितं धनम्।
उत्तरौ तु विसंवादे तौ विना तत्सुतौ तथा।।५३६

एकच्छायाश्रिते सर्वं दद्यात्तु प्रोषिते सुतः।
मृते पितरि पित्रंशं परर्णं न बृहस्पतिः।।५३७

एकच्छायाप्रविष्टानां दाप्यो यस्तत्र दृश्यते।
प्रोषिते तत्सुतः सर्वं पित्रंशं तु मृते सुतः।।५३८

प्रातिभाव्यं तु यो दद्यात् पीडितः प्रतिभावितः।
त्रिपक्षात् परतः सोऽर्थं द्विगुणं लब्धुमर्हति।।५३९

यस्यार्थे येन यद्दत्तं विधिनाभ्यर्थितेन तु।
साक्षिभिर्भावितेनैव प्रतिभूस्तत्समाप्नुयात्।।५४०

सत्यंकारविसंवादे द्विगुणं प्रतिदापयेत्।
अकुर्वतस्तु तद्धानिः सत्यंकारप्रयोजनम्।।५४१

५१ (पित्रादिभिः कृतमृणं केन प्रतिदेयम्) ५४२-५७९

कुटुम्बार्थमशक्तेन गृहीतं व्याधितेन वा।
उपप्लवनिमित्ते च विद्यादापत्कृते तु तत्।।५४२

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534 मिता on या.II.p.54, अपरार्क p.656 (reads यस्तु दर्शनस्य and विभाव्य वादिना तत्र दाप्यः), परा.मा.III.p.251, वि.र.p.43, (follows अपरार्क), वीर.p.326, स्मृतिच.III.p.353 (reads यस्तु दर्शनप्रतिभूः स्थितः विभाव्य वादिना तत्र).

535-536 वीर.p.322 attributes to both कात्यायन and बृहस्पति वीर.p.322 attributes verse 536 to बृहस्पति. परा.मा.III.p.250 and व्य.म.p.176 attributes 536 to बृहस्पति.

537 स्मृतिच.III.p.355, वीर.p.327 (says that this is the reading of the स्मृतिच.).

538 मिता on या.II.p.55, (reads मृते समम्), परा.मा.III.p.251, वि.र.p.52, (reads पित्रंशर्णं मृतस्य च), स.वि.p.250, वीर.p.327, (पित्र्यमंशं मृते तु सः).

539 अपरार्क p.657, स्मृतिच.III.p.357, परा.मा.III.p.252, (reads दण्डितः for पीडितः), वि.र.p.52, वीर.p.328 (ascribes to both कात्यायन and बृह).

540 अपरार्क p.657, स्मृतिच.III.p.356, (reads विवादेभ्यर्थितेन), वि.र.p.46, (भ्यदितेन), वीर.p.328.

541 विश्वरूप on या.II.63.

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कन्यावैवाहिकं चैव प्रेतकार्ये च यत्कृतम्।
एतत्सर्वं प्रदातव्यं कुटुम्बेन कृतं प्रभोः।।५४३

ऋणं पुत्रकृतं पित्रा न देयमिति धर्मतः।
देयं प्रतिश्रुतं यत्स्यात् यच्च स्यादनुमोदितम्।।५४४

प्रोषितस्यामतेनापि कुटुम्बार्थमृणं कृतम्।
दासस्त्रीमातृशिष्यैर्वा दद्यात्पुत्रेण वा भृगुः।।५४५

भर्त्रा पुत्रेण वा सार्धं केवलेनात्मना कृतम्।
ऋणमेवंविधं देयं नान्यथा तत्कृतं स्त्रिया।।५४६

मर्तुकामेन या भर्त्रा प्रोक्ता देयमृणं त्वया।
अप्रपन्नापि सा दाप्या धनं यद्याश्रितं स्त्रियाम्।।५४७

विद्यमानेऽपि रोगार्ते स्वदेशात्प्रोषितेऽपि वा।
विंशात्संवत्सराद्देयं ऋणं पितृकृतं सुतैः।।५४८

व्याधितोन्मत्तवृद्धानां तथा दीर्घप्रवासिनाम्।
ऋणमेवं विधं पुत्रान् जीवतामपि दापयेत्।।५४९

सांनिध्येऽपि पितुः पुत्रैर्ऋणं देयं विभावितम्।
जात्यन्धपतितोन्मत्तक्षयश्वित्रादिरोगिणः।।५५०

पितृणां सूनुभिर्जातैर्दानेनैवाधमाद्दणात्।
विमोक्षस्तु यतस्तस्मादिच्छन्ति पितरः सुतान्।।५५१

542-543 अपरार्क p.647, स्मृतिच.III.p.408 (reads अशक्ते तु, व्याधितेथवा), परा.मा.III.p.268, वि.र.p.56, वीर.p.352, स.वि.p.253 (change the order of the lines).

544 स्मृतिच.III.pp.408-409, वीर.p.353, स.वि.p.263 (latter half), वि.र.p.57, (reads स्यादनुवर्णितम्).

545 अपरार्क p.648, (reads दासरव्यमात्य), स्मृतिच.III.p.407, परा.मा.III.p.268 (reads दद्यात्पुत्रेण वा पिता), वि.र.p.56, स.वि.p.263.

546 अपरार्क p.649, स्मृतिच.III.p.411, वि.र.p.60, वीर.p.353.

547 स्मृतिच.III.p.412, परा.मा.III.p.270 धनं दद्यात्सुतो यथा), स.वि.p.263, वीर.p.354.

548 अपरार्क p.650, स्मृतिच.III.p.394, परा.मा.III.p.263, स.वि.p.256, वीर.p.342.

549 अपरार्क p.650 वि.र.p.51.

550 अपरार्क p.650 वि.र.p.51, परा.मा.III.p.263, वि.चि.p.16, स्मृतिच.III.p.394. All except अपरार्क ascribe to बृहस्पति.

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नाप्राप्तव्यवहारेण पितर्युपरते क्वचित्।
काले तु विधिना देयं वसेयुर्नरकेऽन्यथा।।५५२

अप्राप्तव्यवहारश्चेत्स्वतन्त्रोपीह नर्णभाक्।
स्वातन्त्र्यं हि स्मृतं ज्येष्ठे ज्यैष्ठे (ष्ठयं) गुणवयः कृतम्।।५५३

यद्दृष्टं दत्तशेषं वा देयं पैतामहं तु तत्।
सदोषं व्याहृतं पित्रा नैव देयमृणं क्वचित्।।५५४

पित्रा दृष्टमृणं यत्तु क्रमायातं पितामहात्।
निर्दोषं नोद्धृतं पुत्रैर्देयं पौत्रैस्तु तद्भृगुः।।५५५

पैतामहं तु यत्पुत्रैर्न दत्तं रोगिभिः स्थितैः।
तस्मादेवंविधं पौत्रैर्देयं पैतामहं समम्।।५५६

ऋणं तु दापयेत्पुत्रं यदि स्यान्निरुपद्रवः।
द्रविणार्हश्च धुर्यश्च नान्यथा दापयेत्सुतम्।।५५७

यद्देयं पितृभिर्नित्यं तदभावे तु तद्धनात्।
तद्धनं पुत्रपुत्रैर्वा देयं तत्स्वमिने तदा।।५५८

पित्रर्णे विद्यमाने तु न च पुत्रो धनं हरेत्।
देयं तद्धनिके द्रव्यं मृते गृह्णंस्तु दाप्यते।।५५९

पुत्राभावे तु दातव्यमृणं पौत्रेण यत्नतः।
चतुर्थेन न दातव्यं तस्मात्तद्विनिवर्तते।।५६०

प्रातिभाव्यागतं पौत्रैर्दातव्यं न तु तत्क्वचित्।
पुत्रेणापि समं देयमृणं सर्वत्र पैतृकम्।।५६१

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551 स्मृतिच.III.p.393, परा.मा.III.p.263, वीर.p.341.

552 अपरार्क p.650, स्मृतिच.III.p.393, (reads व्यवहारैस्तु) वि.र.p.54 (व्यवारैरस्तु), परा.मा.III.p.263.

553 स्मृतिच.III.p.393, (first half), वीर.pp.340-341.

554 अपरार्क p.650, स्मृतिच.III.p.398, (reads यदृणं दत्तशेषं), वि.र.p.48, वि.चि.p.16.

555 अपरार्क p.651, स्मृतिच.III.p.397, वि.र.p.48, स.वि.p.258.

556 स्मृतिच.III.p.398, वि.र.p.48.

557 अपरार्क p.651, स्मृतिच.III.p.394, परा.मा.III.p.263, वि.र.p.63, वीर.p.351.

558 स.वि.p.258.

559 स्मृतिच.III.p.395, परा.मा.III.p.264, वीर.p.344 (reads पुत्रैस्तु दाप्यते).

560 स्मृतिच.III.p.395, (तस्मात्तद्धि निवर्तते), परा.मा.III.p.264, वि.र.p.49 (reads पित्र्यभावे and चतुर्थेन यदा दानं), वीर.p.342 (reads पित्रभावे तु).

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रिक्थहर्त्रा ऋणं देयं तदभावे च योषितः।
पुत्रैश्च तदभावेऽन्यैः रिक्थभाग्भिर्यथाक्रमम्।।५६२

यावन्न पैतृकं द्रव्यं विद्यमानं लभेत्सुतः।
सुसमृद्धोऽपि दाप्यः स्यात्तावन्नैवाधमर्णिकः।।५६३

लिखितं मुक्तकं वापि देयं यत्तु प्रतिश्रुतम्।
परपूर्वस्त्रियै यत्तु विद्यात्कामकृतं नृणाम्।।५६४

यत्र हिंसां समुत्पाद्य कोधाद् द्रव्यं विनाश्य वा।
उक्तं तुष्टिकरं यत्तु विद्यात्क्रोधकृतं तु तत्।।५६५

स्वस्थेनार्तेन वा देयं भावितं धर्मकारणात्।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः।।५६६

निर्धनैरपत्यैस्तु यत्कृतं शौण्डिकादिभिः।
तत्स्त्रीणामुपभोक्ता तु दद्यात्तद्दणमेव हि।।५६७

शौण्डिकव्याधजनकगोपनाविकयोषिताम्।
आधिष्ठाता ऋणं दाप्यस्तासां भर्तृक्रियासु तत्।।५६८

न च भार्याकृतमृणं कथंचित्पत्युराभवेत्।
आपत्कृताद्दते पुंसां कुटुम्बार्थे हि विस्तरः।।५६९

अन्यत्ररजकव्याधगोपशौण्डिकयोषिताम्।
तेषां तु तत्परा वृत्तिः कुटुम्बं च तदाश्रयम्।।५७०

अमतेनैव पुत्रस्य प्रधना यान्यमाश्रयेत्।
पुत्रेणैवापहार्यं तद्धनं दुहितृभिर्विना।।५७१

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561 अपरार्क p.656, वि.र.p.44,

562-563 विश्वरूप on या II 47.

564-565 अपरार्क p.648, स्मृतिच.III.p.396, परा.मा.III.p.266, वि.र.p.58, वि.चि.p.17, स.वि.p.257, वीर.p.343-344.

566 विवादचन्द्र, वि.चि.p.16 (reads सुस्थेन), व्य.म.p.206.

567 अपरार्क p.652, वि.र.p.62, व्य.म.p.187, वि.चि.p.19.

568 वीर.p.354.

569-570 वीर.p.354, वि.चि.p.19 ascribes these two to नारद; अपरार्क (p.649) also does so.

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ऋणार्थमाहरेत्तन्तुं न सुखार्थं कदाचन।
अयुक्ते कारणे यस्मात्पितरौ तु न दापयेत्।।५७२

या स्वपुत्रं तु जह्यात्स्त्री समर्थमपि पुत्रिणी।
आहृत्य स्त्रीधनं तत्र पित्र्यर्णं शोधयेन्मनुः।।५७३

बालपुत्राधिकार्था च भर्तारं यान्यमाश्रिता।
आश्रितस्तद्दणं दद्याद्बालपुत्राविधिः स्मृतः।।५७४

दीर्घप्रवासिनिर्बन्धुजडोन्मत्तार्तलिङ्गिनाम्।
जीवतामपि दातव्यं तत्स्त्रीद्रव्यसमाश्रितैः।।५७५

व्यसनाभिप्लुते पुत्रे बालो वा यत्र दृश्यते।
द्रव्यहृद्दाप्यते तत्र तस्याभावे पुरन्ध्रिहृत्।।५७६

पूर्वं दद्याद्धनग्राहः पुत्रस्तस्मादनन्तरम्।
योषिद्ग्राहः सुताभावे पुत्रो वात्यन्तनिर्धनः।।५७७

देयं भार्याकृतमृणं भर्त्रा पुत्रेण मातृकम्।
भर्तुरर्थे कृतं यत्स्यादभिधाय गते दिशम्।।५७८

देयं पुत्रकृतं तत्स्याद्यच्च स्यादनुवर्णितम्।
कृतासंवादितं यच्च श्रुत्वा चैवानुचोदितम्।।५७९

५२ (अधमर्णिकस्यावरोधादिना धनोद्धारविचारः) ५८०-५९१

धार्योऽरुद्धस्त्वृणिकः प्रकाशं जनसंसदि।
यावन्न दद्याद्देयं च देशाचारस्थितिर्यथा।।५८०

571-573 वि.चि.p.65.

574 अपरार्क p.654, स्मृतिच.III.p.406 (reads त्रातारं यान्य), परा.मा.III.p.275 (reads भ्रातरं या), स.वि.p.263 (reads पुत्रदिकर्ता च त्रातारं and बालपुत्रादिविश्रुतम्), वीर.p.355, वि.र.p.66.

575 अपरार्क p.648 (reads द्रव्यं समाश्रितैः), वि.र.p.66, वि.चि.p.20.

576 स्मृतिच.III.p.402, वि.र.p.64 and वि.चि.p.18 (read बाले), वीर.p.351 (reads बाले वा यत्प्रदृश्यते).

577 स्मृतिच.III.p.403, वीर.p.351.

578-79 स्मृतिच.III.p.407, वीर.p.353 (reads अविधाय and has 578 only), वि.र.p.59 (has only 578 and reads भक्तस्यार्थे).

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विण्मूत्रशङ्का यस्य स्याद्धार्यमाणस्य देहिनः।
पृष्ठतो वानुगन्तव्यो निबद्धं वा समुत्सृजेत्।।५८१

स कृतप्रतिभूश्चैव मोक्तव्यः स्याद्दिने दिने।
आहारकाले रात्रौ च निबन्धे प्रतिभूः स्थितः।।५८२

यो दर्शनप्रतिभुवं नाधिगच्छेन्न चाश्रयेत्।
स चारके निरोद्धव्यः स्थाप्यो वावेद्य रक्षिणः।।५८३

न चारके निरोद्धव्यः आर्यः प्रात्ययिकः शुचिः।
सोऽनिबद्धः प्रमोक्तव्यो निबद्धः शपथेन वा।।५८४

पीडनेनोपरोधेन साधयेद्दणिकं धनी।
कर्मणा व्यवहारेण सान्त्वेनादौ विभावितः।।५८५

आददीतार्थमेवं तु व्याजेनाचरितेन च।
कर्मणा क्षत्रविट्शूद्रान् समहीनांश्च दापयेत्।।५८६

राजानं स्वामिनं विप्रं सान्त्वेनैव प्रदापयेत्।
रिक्थिनं सुहृदं वापि च्छलेनैव प्रसाधयेत्।।५८७

वणिजः कर्षकाश्चैव शिल्पिनश्चाब्रवीद्भृगुः।
देशाचारेण दाप्याः स्युर्दुष्टान् संपीड्य दापयेत्।।५८८

पीडयेत्तु धनी यत्र ऋणिकं न्यायवादिनम्।
तस्मादर्थात्स हीयते तत्समं चाप्नुयाद्दमम्।।५८९

यदि ह्यादावनादिष्टमशुभं कर्म कारयेत्।
प्राप्नुयात्साहसं पूर्वमृणान्मुच्येत चर्णिकः।।५९०

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580 स्मृतिच.III.p.384, वि.र.p.67, व्य.म.p.179, वीर.p.334.

581 स्मृतिच.III.p.384, वि.र.p.69 (read संज्ञा for शङ्का and निबन्धं), व्य.म.p.179 (read निबन्धं), वीर.p.334.

582-584 स्मृतिच.III.p.385, वीर.p.334-335 (read वारके in 583-584), वि.र.p.69 (reads सोनिरुद्धः and निरुद्धः शपथेन).

585-86 वि.र.p.64 and 71, वीर.p.351 (reads विभावितं and कर्षकान् क्षत्र). remarks that कल्पतरु read कर्मणा क्षत्र.

587-588 स्मृतिच.III.p.384, वि.र.p.69, वीर.pp.333-334, वि.चि.p.21, अपरार्क p.645 (has 587 and latter half of 588 and reads राजा तु and छलेन न च दापयेत्).

589 मिता on या II.p.40, स्मृतिच.III.p.388, अपरार्क p.645, परा.मा.III.p.258, वीर.p.336

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उद्धारादिकमादाय स्वामिने न ददाति यः।
स तस्य दासो भृत्यः स्त्री पशुर्वा जायते गृहे।।५९१

५३ (उपनिधिः) ५९२-६११

क्रय-प्रोषित-निक्षिप्त-बन्धान्वाहितयाचितम्।
वैश्यवृत्त्यर्पितं चैव सोऽर्थस्तूपनिधिः स्मृतः।।५९२

निक्षिप्तं यस्य यत्किंचित्तत्प्रयत्नेन पालयेत्।
दैवराजकृतादन्यो विनाशस्तस्य कीर्त्यते।।५९३

यस्य दोषेण यत्किंचिद्विनाश्येत ह्रियेत वा।
तद् द्रव्यं सोदयं दाप्यो दैवराजकृताद्विना।।५९४

याचितानन्तरं नाशे दैवराजकृतेऽपि सः।
ग्रहीता प्रतिदाप्यः स्यान्मूल्यमात्रं न संशयः।।५९५

न्यासादिकं परद्रव्यं प्रभक्षिततमुपेक्षितम्।
अज्ञाननाशितं चैव येन दाप्यः स एव तत्।।५९६

भक्षितं सोदयं दाप्यः समं दाप्य उपेक्षितम्।
किंचिन्न्यूनं प्रदाप्यः स्याद् द्रव्यमज्ञाननाशितम्।।५९७

अराजदैविकेनापि निक्षिप्तं यत्र नाशितम्।
ग्रहीतुः सह भाण्डेन दातुर्नष्टं तदुच्यते।।५९८

ज्ञात्वा द्रव्यवियोगं तु दाता यत्र विनिक्षिपेत्।
सर्वोपायविनाशेऽपि ग्रहीता नैव दाप्यते।।५९९

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590 वि.र.p.71, वीर.p.339, अपरार्क p.647.
591 स्मृतिच.III.p.376, परा.मा.III.p.261, व्य.म.p.184, वीर.p.357.
592 अपरार्क p.662, स्मृतिच.III.p.5, वि.र.p.84 (read क्रयः प्रोषितनिक्षिप्तो), वि.चि.p.26.
593 स्मृतिच.III.p.419, वीर.p.364.
594 अपरार्क p.663, स्मृतिच.III.p.419, वि.र.p.89, वि.चि.p.24, वीर.p.364.
595 स्मृतिच.III.p.420 (has not the words मूल्य... संशयः), वीर.p.364 (attributes to व्यास).
596 स्मृतिच.III.p.420, परा.मा.III.p.283,
597 मिता.on या.II.67, वीर.p.364 (attributes to व्यास and कात्यायन), परा.मा.III.p.283 (ascribes to व्यास).
598 अपरार्क p.663, स्मृतिच.III.p.417, परा.मा.III.p.282, वि.र.p.88, वीर.p.363 (reads राजदैविकचौरैर्वा निक्षिप्तं).

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ग्राहकस्य हि यद्दोषान्नष्टं तु ग्राहकस्य तत्।
तस्मिन्नष्टे हृते वापि ग्रहीता मूल्यमाहरेत्।।६००

ग्राह्यस्तूपनिधिः काले कालहीनं तु वर्जयेत्।
कालहीनं ददद्दण्डं द्विगुणं च प्रदाप्यते।।६०१

सर्वेषूपनिधिष्वेति विधयः परिकीर्तिताः।।६०२

यैश्च संस्क्रियते न्यासो दिवसैः परिनिश्चितैः।
तदूर्ध्वं स्थापयेच्छिल्पी दाप्यो दैवहतेऽपि तत्।।६०३

न्यासदोषाद्विनाशः स्याच्छिल्पिन स्तन्न दापयेत्।
दापयेच्छिल्पिदोषात्तत्संस्कारार्थं यदर्पितम्।।६०४

स्वल्पेनापि च यत्कर्म नष्ट चेद्धृतकस्य तत्।
पर्याप्तं दित्सतस्तस्य विनश्येत्तदगृह्णतः।।६०५

यदि तत्कार्यमुद्दिश्य कालं परिनियम्य वा।
याचितोऽर्द्धकृते तस्मिन्नप्राप्ते न तु दाप्यते।।६०६

प्राप्तकाले कृते कार्ये न दद्याद्याचितोऽपि सन्।
तस्मिन्नष्टे हृते वापि ग्रहीता मूल्यमाहरेत्।।६०७

याच्यमानो न दद्याद्वा दाप्यस्तत्सोदयं भवेत्।
अथ कार्यविपत्तिस्तु तस्यैव स्वामिनो भवेत्।
अप्राप्ते वै स काले तु दाप्यस्त्वर्धकृतेऽपि तत्।।६०९

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599 स्मृतिच.III.p.418, परा.मा.III.p.283, वि.र.p.89 (read सर्वापाय),वीर.p.363.

600 वि.र.p.89, वि.चि.p.24 (first half), वि.र.p.89 has first half.

601 अपरार्क p.663, स्मृतिच.III.p.422, परा.मा.III.p.286, वि.र.p.93 (read कालहीने), वीर.p.367.

602 वि.र.p.92.

603-604 स्मृतिच.III.p.426, परा.मा.III.p.288, वि.र.p.98, (read परिनिष्ठितैः) व्य.म.p.193 (has only 603 and reads परिनिष्ठितैः and दैवाद्गतेपि तं), वीर.p.364 (तदूर्ध्वं स्थापयन् and शिल्पी दैवाद्गतेपि तम्).

605 स्मृतिच.III.p.427, परा.मा.III.p.289, (read शिल्पेनापि), वीर.p.370 (ascribes to मनु and कात्यायन), वि.र.p.98.

606 स्मृतिच.III.p.427, परा.मा.III.p.289, वि.र.p.93, वीर.p.371.

607 स्मृतिच.III.p.428, परा.मा.III.p.290, (reads तस्मिन्नष्टे मृते), वि.र.p.24, वीर.p.371.

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यो याचितकमादाय न दद्यात् प्रतियाचितः।
स निगृह्य बलाद्दाप्यो दण्ड्यश्च न ददाति यः।।६१०

अनुमार्गेण कार्येषु अन्यस्मिन् वचनान्मम।
दद्यास्त्वमिति यो दत्तः स इहान्वाधिरुच्यते।।६११

५४ (अस्वामिविक्रयः) ६१२-६२३

अस्वामिविक्रयं दानमाधिञ्च विनिवर्त्तयेत्।।६१२

अभियोक्ता धनं कुर्यात् प्रथमं ज्ञातृभिः स्वकम्।
पश्चादात्मविशुद्ध्यर्थं क्रयं क्रेता स्वबन्धुभिः।।६१३

नाष्टिकस्तु प्रकुर्वीत तद्धनं ज्ञातृभिः स्वकम्।
अदत्तत्यक्तविक्रीतं कृत्वा स्वं लभते धनम्।।६१४

प्रकाशं वा क्रयं कुर्यान्मूलं वापि समर्पयेत्।
मूलानयनकालस्तु देयो योजनसंख्यया।।६१५

प्रकाशं च क्रयं कुर्यात्साधुभिर्ज्ञातिभिः स्वकैः।
न तत्रान्या क्रिया प्रोक्ता दैविको न च मानुषी।।६१६

यदा मूलमुपन्यस्य पुनर्वादी क्रयं वदेत्।
आहरेम्मूलमेवासौ न क्रयेण प्रयोजनम्।।६१७

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608 स्मृतिच.III.p.427.

609 स्मृतिच.III.p.428, परा.मा.III.p.290, वि.र.p.93 (reads स्वकाले), वीर.p.372.

610 अपरार्क p.664, (read last pada as दण्डेन च ददाति यः), स्मृतिच.III.p.429, वि.र.p.92, वीर.p.367.

611 वि.र.p.84.

612 मिता.on या II.168 (no name), स्मृतिच.III.p.499, परा.मा.III.p.291, वि.र.p.104, स.वि.p.305.

613 अपरार्क p.777, स्मृतिच.III.p.501 (first half), परा.मा.III.p.300, वि.र.p.106, वीर.p.376 (first half).

614 अपरार्क p.777, (reads अदत्तं त्यक्त), स्मृतिच.III.p.502, परा.मा.III.p.294 (first half and reads ज्ञातृभिः), वि.र.p.104, स.वि.p.306, वीर.p.378.

615 मिता.on या II.170 (cities without author's name and reads देयस्तत्राध्वसंख्यया), अपरार्क.p.776, (reads मूल्यं वापि), वि.र.p.101, व्य.म.p.196 (latter half).

616 अपरार्क p.777, (without author's name), मिता.on या II.170 (first half without author's name), वि.र.p.106, स्मृतिच.III.p.504 (first half).

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असमाहार्यमूलस्तु क्रयमेव विशोधयेत्।
विशोधिते क्रये राज्ञा वक्तव्यः स न किञ्चन।।६१८

अनुपस्थापयन्मूलं क्रयं वाप्यविशोधयन्।
यथाभियोगं धनिने धनं दाप्यो दमं च सः।।६१९

यदि स्वं नैव कुरुते ज्ञातिभिर्नाष्टिको धनम्।
प्रसङ्गविनिवृत्यर्थं चोरवद्दण्डमर्हति।।६२०

वणिग्वीथीपरिगतं विज्ञातं राजपुरुषैः।
अविज्ञाताश्रयात्क्रेतं विक्रेता यत्र वा मृतः।।६२१

स्वामी दत्त्वार्धमूल्यं तु प्रगृह्णीत स्वकं धनम्।
अर्धं द्वयोरपहृतं तत्र स्याद्व्यवहारतः।।६२२

अविज्ञातक्रयो दोषस्तथा चापरिपालनम्।
एतद्वयं समाख्यातं द्रव्यहानिकरं बुधैः।।६२३

५५(सम्भूयसमुत्थानम्) ६२४-६३७

समवेतास्तु ये केचिच्छिल्पिनो वणिजोऽपि वा।
अविभज्य पृथग्भूतैः प्राप्तं तत्र फलं समम्।।६२४

भाण्डपिण्डव्ययोद्धारभारसारार्थवीक्षणम्।
कुर्युस्तेऽव्यभिचारेण समयेन व्यवस्थिताः।।६२५

प्रयोगं कुर्वते ये तु हेमधान्यरसादिना।
समन्यूनाधिकैरंशैर्लाभस्तेषां तथाविधः।।६२६

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617 अपरार्क p.776, (read पूर्ववादी), स्मृतिच.III.p.504, परा.मा.III.p.297 (read पूर्ववादी), वि.र.p.101, वीर.p.381.

618 अपरार्क p.777, (with out author's name), मिता.on या.II.170 (first half without author's name), वि.र.p.106, स्मृतिच.III.p.504 (first half).

619 मिता.on या.II. p.170 (cites as मनु's), वीर.p.381, वि.र.p.108, व्य.म.p.197 स्मृतिच.III.p.504, परा.मा.III.p.297. All these except the मिता ascribe to कात्या.

620 अपरार्क 777 (ज्ञातृभिः for ज्ञातिभिः), स्मृतिच.III.p.505, वि.र.p.105, परा.मा.III.p.297.

621-623 स्मृतिच.III.pp.507, 508, परा.मा.III.pp.297 and 300, वीर.p.380. अपरार्क 775 ascribes these to बृहस्पति, the व्य.म.p.197 and कुल्लूक on मनु.8. 202 ascribe 621-622 to बृहस्पति.

624-625 अपरार्क p.832 स्मृतिच.III.p.431 and परा.मा.III.p.304 ascribes 625 to नारद.

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बहूनां संमतो यस्तु दद्यादेको धनं नरः।
ऋणं च कारयेद्वापि सर्वैरेव कृतं भवेत्।।६२७

ज्ञातिसंबन्धिसुहृदामृणं देयं सबन्धकम्।
अन्येषां लग्नकोपेतं लेख्यसाक्षियुतं तथा।।६२८

स्वेच्छादेयं हिरण्यं तु रसा धान्यं च सावधि।
देशस्थित्या प्रदातव्यं ग्रहीतव्यं तथैव च।।६२९

समवेतैस्तु यद्दत्तं प्रार्थनीयं तथैव तत्।
न च याचेत यः कश्चिल्लाभात्स परिहीयते।।६३०

चोरतः सलिलादग्नेर्द्रव्यं यस्तु समाहरेत्।
तस्यांशो दशमो देयः सर्ववादेष्वयं विधिः।।६३१

शिक्षकाभिज्ञकुशला आचार्यश्चेति शिल्पिनः।
एकद्वित्रिचतुर्भागान् हरेयुस्ते यथोत्तरम्।।६३२

परराष्ट्राद्धनं यत्स्याच्चौरैः स्वाम्याज्ञयाहृतम्।
राज्ञो दशांशमुद्धृत्य विभजेरन् यथाविधि।।६३३

चोराणां मुख्यभूतस्तु चतुरोऽशांस्ततो हरेत्।
शूरोऽशांस्त्रीन् समर्थो द्वौ शेषास्त्वेकैकमेव च।।६३४

तेषां चेत् प्रसृतानां यो ग्रहणं समबाप्नुयात्।
तन्मोक्षणार्थं यद्दत्तं वहेयुस्ते यथांशतः।।६३५

नर्तकानामेष एव धर्मः सद्भिरुदाहृतः।
तालज्ञो लभते त्वर्धं गायनास्तु समांशिनः।

626-630 अपरार्क p.832-833. All are ascribed to बृहस्पति in वि.र.p.123, स्मृतिच.ascribes 626, 627, 630 to बृहस्पति, स.वि.p.272 has 627 but cites no name, व्य.म.p.200 ascribes 627 to बृहस्पति परा.मा.III.p.306 ascribes 627 and 630 to बृहस्पति.

631 स्मृतिच.III.p.433, परा.मा.III.p.305, वि.र.p.114, (सर्वद्रव्येष्वयं), स.वि.p.273.

632 अपरार्क p.838, स्मृतिच.III.p.435, परा.मा.III.p.310 (reads शिल्पाकरज्ञकुशला and यथांशतः), वि.र.p.124, स.वि.p.273, वीर.p.390.

633-634 परा.मा.III.p.311, स्मृतिच.III.p.440, वि.र.p.125-126, वीर.p.391, स.वि.p.276 (only verse 632).

635 स्मृतिच.III.p.441, परा.मा.III.p.311, स.वि.p.276, व्य.म.p.200, वीर.p.391, वि.र.p.126 (reads तस्य कार्या समा क्रिया).

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प्रमुखा द्यंशमर्हन्ति सोऽयं संभूय कुर्वताम्।।६३६

वणिजां कर्षकाणाञ्च चोराणां शिल्पिनां तथा ।
अनियम्यांशकर्तृणां सर्वेषामेष निर्णायः।।६३७

५६ (दत्तानपाकर्म दत्ताप्रदानिकं वा) ६३८-६५६

विक्रयश्चैव दानञ्च न नेयाः स्युरनिच्छवः।
दाराः पुत्राश्च सर्वस्वमात्मनैव तु योजयेत्।।६३८

आपत्काले तु कर्तव्यं दानं विक्रय एव वा।
अन्यथा न प्रवर्तेत इति शास्त्रविनिश्चयः।।६३९

सर्वस्वं गृहवर्जं तु कुटुम्बभरणाधिकम्।
यद्द्रव्यं तत्स्वकं देयमदेयं स्यादतोऽन्यथा।।६४०

अतश्च सुतदाराणां वशित्वं त्वनुशासने।
विक्रये चैव दाने च वशित्वं न सुते पितुः।।६४१

स्वेच्छया यः प्रतिश्रुत्य ब्राह्मणाय प्रतिग्रहम्।
न दद्याद्दणवद्दाप्यः प्राप्नुयात्पूर्वसाहसम्।।६४२

प्रतिश्रुतस्यादानेन दत्तस्याच्छादनेन च।
कल्पकोटिशतं मर्त्यस्तिर्यग्योनौ च जायते।।६४३

अविज्ञातोपलब्ध्यर्थं दानं यत्र निरूपितम्।
उपलब्धिक्रियालब्धं सा भृतिः परिकीर्तिता।।६४४

भयत्राणाय रक्षार्थं तथा कार्यप्रसाधनात्।
अनेन विधिना लब्धं विद्यात्प्रत्युपकारतः।।६४५

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636 परा.मा.III.p.312, अपरार्क ascribes first two half lines to बृहस्पति and so do वि.र.p.125, वीर.p.391, स.वि.p.276.

637 परा.मा.III.p.312, वि.र.p.126, व्य.म.p.201, वीर.p.391, स्मृतिच.III.p.441.

638-639 अपरार्क p.779, परा.मा.III.p.315 (आत्मन्येव) वि.र.p.128 and वि.र.p.36, (both read आत्मन्येव), स्मृतिच.III.p.445-446.

640 स्मृतिच.III.p.445, परा.मा.III.p.214, वि.र.p.129, वि.चि.p.37, स.वि.p.283, वीर.p.395. All except स्मृतिच read सर्वस्वं गृहवर्ज.

641 परा.मा.III.p.315, स्मृतिच.III.p.445 (as स्मृत्यन्तर).

642 स्मृतिच.III.p.449, वि.र.p.132, व्य.म.p.203, वीर.p.397, स.वि.p.285.

643 स.वि.p.285, वि.र.p.132 ascribes a closely similar verse to हारीत.

644 स्मृतिच.III.p.449, अपरार्क p.781, वि.र.p.134, वीर.p.397.

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प्राणसंशयमापन्नं यो मामुत्तारयेदितः।
सर्वस्वं तस्य दास्यामीत्युक्तेऽपि न तथा भवेत्।।६४६

कामक्रोधास्वतन्त्रार्त्तक्लीबोन्मत्तप्रमोहितैः।
व्यत्यासपरिहासाच्च यद्दत्तं तत्पुनर्हरेत्।।६४७

या तु कार्यस्य सिद्ध्यर्थमुत्कोचा स्यात् प्रतिश्रुता।
तस्मिन्नपि प्रसिद्धेऽर्थे न देया स्यात्कथञ्चन।।६४८

अथ प्रागेव दत्ता स्यात्प्रतिदाप्यः स्तथा बलात्।
दण्डं चैकादशगुणमाहुर्गार्गीयमानवाः।।६४९

स्तेनसाहसिकोद्वृत्तपारजायिकशंसनात्।
दर्शनाद् वृत्तनष्टस्य तथासत्यप्रवर्त्तनात्।।६५०

प्राप्तमेतैस्तु यत्किञ्चित्तदुत्कोचाख्यमुच्यते।
न दाता तत्र दण्ड्यः स्यात् मध्यस्थश्चैव दोषभाक्।।६५१

नियुक्तो यस्तु कार्येषु स चेदुत्कोचमाप्नुयात्।
स दाप्यस्तद्धनं कृत्स्नं दमञ्चैकादशाधिकम्।।६५२

अनियुक्तस्तु कार्यार्थमुत्कोचं यमवाप्नुयात्।
कृतप्रत्युपकारार्थस्तस्य दोषो न विद्यते।।६५३

स्वस्थेनार्त्तेन वा दत्तं श्रावितं धर्मकारणात्।
अदत्त्वा तु मृते दाप्यस्तत्सुतो नात्र संशयः।।६५४

योगाधमनविक्रीतं योगदानप्रतिग्रहम्।
यस्य वाप्युपधिं पश्येत्तत्सर्वं विनिवर्तयेत्।।६५५

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645 अपरार्क p.781 (reads प्रत्युपकारकम्), स्मृतिच.III.p.450, वि.र.p.134, वीर.p.398, read भयत्राणोपरक्षा and लब्धं भयत्राणादिक धनम्).

646 अपरार्क p.781, स्मृतिच.III.p.450, वि.र.p.134.

647-649 अपरार्क p.781-782, स्मृतिच.III.p.452, परा.मा.III.p.319, वि.र.p.135-136, व्य.म.p.205 (reads यस्तु and उत्कोचः) वीर.p.399.

650-651 अपरार्क p.782 (read पारजातिक and धृतनष्टस्य), स्मृतिच.III.p.452, परा.मा.III.p.320, (read पारदारिकसंगमात्) वि.र.p.137 (read पारदारिक), स.वि.p.286, (read पारदारिक and धृतनष्टस्य), वीर.p.399-400, व्य.म.p.205.

652-653 स.वि.p.286.

654 अपरार्क p.782, स्मृतिच.III.p.453, मिता on या.II.p.176, परा.मा.III.p.320 स.वि.p.287.

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भृतावनिश्चितायां तु दशभागमवाप्नुयात्।
लाभगोवीर्यसस्यानां वणिग्गोपकृषीवलाः।।६५६

५७ (वेतनस्थानपाकर्म) ६५७-६६३

कर्मारम्भं तु यः कृत्वा सिद्धं नैव तु कारयेत्।
बलात्कारयितव्योऽसावकुर्वन्दण्डमर्हति।।६५७

विघ्नयन्वाहको दाप्यः प्रस्थाने द्विगुणां भृतिम्।।६५८

न तु दाप्यो हृतं चौरैर्दग्धमूढं जलेन वा।।६५९

त्यजेत्पथि सहायं यः श्रान्तं रोगार्तमेव वा।
प्राप्नुयात्साहसं पूर्वं ग्रामे त्र्यहमपालयन्।।६६०

यथा तु पथि तद्भाण्डमासिध्येत ह्रियेत वा।
यावानध्वा गतस्तेन प्राप्नुयात्तावतीं भृतिम्।।६६१

हस्त्यश्वगोखरोष्ट्रादीन् गृहीत्वा भाटकेन यः।
नार्पयेत्कृतकृत्यार्थः स तु दाप्यः सभाटकम्।।६६२

गृहवार्यापणादीनि गृहीत्वा भाटकेन यः।
स्वामिने नार्पयेद्यावत्तावद्दाप्यः सभाटकम्।।६६३

५८ (स्वामिपालविवादः) ६६४-६६७

क्षेत्रारामविवीतेषु गृहेषु पशुवाटिषु।
ग्रहणं तत्प्रविष्टानां ताडनं वा बृहस्पतिः।।६६४

अधमोत्तममध्यानां पशूनां चैव ताडने।
स्वामी तु विवदेद्यत्र दण्डं तत्र प्रकल्पयेत्।।६६५

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655 अपरार्क p.783, स.वि.p.287, ascribes to नारद, स्मृतिच.III.p.454, वीर.p.400 and परा.मा.III.p.320 ascribe to मनु (it is मनु 8.165).

656 स.वि.p.298.

657 स्मृतिच.III.p.473, परा.मा.III.p.325 (reads सर्वं for सिद्धं), वि.र.p.160 (सर्वं), स.वि.p.299, वीर.p.416 (reads सिद्धिं).

658 स्मृतिच.III.p.475 (reads द्विगुणं स्मृतं), परा.मा.III.p.327, वीर.p.418.

659 स.वि.p.300, अपरार्क p.799, स्मृतिच.III.p.475 and वीर.p.418 (ascribes to वृद्धमनु).

660 स्मृतिच.III.p.477, अपरार्क p.800, परा.मा.III.p.332, वि.र.p.165, वीर.p.421.

661 स्मृतिच.III.p.478, परा.मा.III.p.329, वि.र.p.164, वि.चि.p.50, वीर.p.419.

662-663 स्मृतिच.III.p.479, परा.मा.III.p.330-31, वि.र.p.168-169, अपरार्क p.801 (663 only), वीर.p.420.

664 स्मृतिच.III.p.487, वि.र.p.241, वि.चि.p.69.

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अजातेष्वेव सस्येषु कुर्यादावरणं महत्।
दुःखेनेह निवार्यन्ते लब्धस्वादुरसा मृगाः।।६६६

दापयेत्पणपादं गां द्वौ पादौ महिषीं तथा।
तथाजाविकवत्सानां पादो दण्डः प्रकीर्तितः।।६६७

५९ (समयस्यानपाकर्म संविद्व्यतिक्रमो वा) ६६८-६७७

समूहिनां तु यो धर्मस्तेन धर्मेन ते सदा।
प्रकुर्युः सर्वकर्माणि स्वधर्मेषु व्यवस्थिताः।।६६८

अविरोधेन धर्मस्य निर्गतं राजशासनम्।
तस्यैवाचरणं पूर्वं कर्तव्यं तु नृपाज्ञया।।६६९

राजप्रवर्तितान्धर्मान् यो नरो नानुपालयेत्।
गर्ह्यः स पापो दण्ड्यश्च लोपयन् राजशासनम्।।६७०

युक्तियुक्तं च यो हन्याद्वक्तुर्योऽनवकाशदः।
अयुक्तञ्चैव यो ब्रूते स दाप्यः पूर्वसाहसम्।।६७१

साहसी भेदकारी च गणद्रव्यविनाशकः।
उच्छेद्याः सर्व एवैते विख्याप्यैवं नृपैर्भृगुः।।६७२

एकपात्रे च वा पङ्क्त्यां संभोक्ता यस्य यो भवेत्।
अकुर्वंस्तत्तथा दण्ड्यस्तस्य दोषमदर्शयन्।।६७३

गणमुद्दिश्य यत्किञ्चित्कृत्वर्णं भक्षितं भवेत्।
आत्मार्थं विनियुक्तं वा देयं तैरेव तद्भवेत्।।६७४

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665 स्मृतिच.III.p.488, अपरार्क p.672, वि.र.p.241, वि.चि.p.69.

666 स्मृतिच.III.p.488, अपरार्क p.770, परा.मा.III.p.378, वीर.p.446.

667 स्मृतिच.III.p.494, (first half), वि.र.p.235, वि.चि.p.67.

668 स्मृतिच.III.p.525, वि.र.p.180 and वीर.p.426 (reads समूहामां), परा.मा.III.p.353 (also समूहानां).

669-670 स्मृतिच.III.p.525-526, वि.र.p.235, वीर.p.426.

671 अपरार्क p.795, स्मृतिच.III.p.527, परा.मा.III.p.354, (हन्याद्यः कार्यानवकाशदः) वीर.p.428, वि.र.p.179.

672 अपरार्क p.693, स्मृतिच.III.p.530, (reads नृपैर्भृगुः and notices the reading नृपेभृगुः) वि.र.p.183, वीर.p.428.

673 अपरार्क p.794, वि.र.p.185, वि.चि.p.54, स.वि.p.330 (reads पङ्क्त्यां वा न भोक्ता येन यो भवेत्। अकुर्वन् स तथा).

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गणानां श्रेणिवर्गाणां गताः स्युर्ये तु मध्यताम्।
प्राक्तनस्य धनर्णस्य समांशाः सर्व एव ते।।६७५

तथैव भोज्यवैभाज्यदानधर्मक्रियासु च।
समूहस्थोऽशभागी स्यात्प्रगतस्त्वंशभाङ्न तु।।६७६

यत्तैः प्राप्तं रक्षितं वा गणार्थे वा ऋणं कृतम्।
राजप्रसादलब्धं च सर्वेषामेव तत्समम्।।६७७

६० (नैगमादिसंज्ञालक्षणम्) ६७८-६८२

नानापौरसमूहस्तु नैगमः परिकीर्तितः।
नानायुधधरा व्राताः समवेताः प्रकीर्तिताः।।६७८

समूहो वणिजादीनां पूगः संपरिकीर्तितः।
प्रव्रज्यावसिता ये तु पाषण्डाः परिकीर्तिताः।।६७९

ब्राह्मणानां समूहस्तु गणः संपरिकीर्तिताः।
शिल्पोपजीविनो ये तु शिल्पिनः परिकीर्तिताः।।६८०

आर्हतसौगतानां तु समूहः सङ्घ उच्यते।
चाण्डालश्वपचादीनां समूहो गुल्म उच्यते।।६८१

गणपाषण्डपूगाश्च व्राताश्च श्रेणयस्तथा।
समूहस्थाश्च ये चान्ये वर्गाख्यास्ते बृहस्पतिः।।६८२

६१ (क्रयविक्रयानुशयः क्रीत्वानुशयो विक्रीय संप्रदानं वा) ६८३-७१२

क्रीत्वा प्राप्तं न गृह्णीयाद्यो न दद्याददूषितम्।
स मूल्याद्दशमं भागं दत्त्वा स्वद्रव्यमाप्नुयात्।।६८३

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674 अपरार्क p.795, (reads यैः कैश्चित्), स्मृतिच.III.p.533, परा.मा.III.p.359, स.वि.p.131, वि.र.p.187, वि.चि.p.55.

675-676 अपरार्क p.795, (reads भोज्यं वैभाज्यं धनं) स्मृतिच.III.p.533, (reads गणिनां शिल्पिवर्गाणां and वैभव्य), परा.मा.III.p.359-360 (reads प्राक्तनस्याधमर्णस्य, भोजनैर्भाव्यं and प्रगतस्त्वंशभागभाक्), वि.र.p.187-188, वीर.p.432 (reads वैभव्य and प्राग्गतः).

677 स.वि.p.330.

678-682 वि.र.p.668-669, स्मृतिच.III.p.524, and वीर.p.426 and परा.मा.III.p.352 have latter half of 678 and first half of 680 (they read कुलानां हि समूहस्तु). स्मृतिच.III.p.40 has ७८२, latter half of 678 and first half of 680.

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अप्राप्तेऽर्थक्रियाकाले कृते नैव प्रदापयेत्।
एवं धर्मो दशाहात्तु परतोऽनुशयो न तु।।६८४

भूमेर्दशाहे विक्रेतुरायस्तत्क्रेतुरेव च।
द्वादशाहः सपिण्डानामपि चाल्पमतः परम्।।६८५

क्रीत्वानुशयवान्पण्यं त्यजेद्दोह्यादि यो नरः।
अदुष्टमेव काले तु स मूल्याद्दशमं वहेत्।।६८६

क्रीत्वा गच्छन्ननुशयं क्रयी हस्तमुपागते।
षड्भागं तत्र मूल्यस्य दत्त्वा क्रीतं त्यजेद्बुधः।।६८७

अविज्ञातं तु यत्क्रीतं दुष्टं पश्चाद्विभावितम्।
क्रीतं तत्स्वामिने देयं काले चेदन्यथा न तु।।६८८

निर्दोषं दर्शयित्वा तु यः सदोषं प्रयच्छति।
मूल्यं तत् द्विगुणं दाप्यो विनयं तावदेव च।।६८९

उपहन्येत वा पण्यं दह्येतापह्रियेत वा।
विक्रेतुरेव सोऽनर्थो विक्रीयासं प्रयच्छतः।।६९०

दीयमानं न गृह्णाति क्रीतं पण्यं च यः क्रयी।
विक्रीतं च तदन्यत्र विक्रेता नापराध्नुयात्।।६९१

मत्तोन्मत्तेन विक्रीतं हीनमूल्यं भयेन वा।
अस्वतन्त्रेण मुग्धेन त्याज्यं तस्य पुनर्भवेत्।।६९२

683-684 स्मृतिच.III.p.511, वि.र.p.191-192, परा.मा.III.p.367, स.वि.p.310 (reads अपरार्क p.672, वि.चि.p.56, (अप्राप्तेर्थे क्रियाकारे), वीर.p.439, (अप्राप्तेथ क्रियाकाले), वि.र.also reads अप्राप्तेर्थे क्रियाकारे.

685 परा.मा.III.p.364.

686 स्मृतिच.III.p.512, वि.र.p.197, स.वि.p.311 (क्रीत्वाप्यनुशयात्), वीर.p.435 (reads क्रीत्वा चानुशयं पश्चात्त्यजेद् दोषाद्दते).

687 स्मृतिच.III.p.512, वि.र.p.197, (reads त्यजेद्भृगुः), वीर.p.435.

688 स्मृतिच.III.p.518, परा.मा.III.p.361, वि.र.p.199, (reads देयं पण्यं कालेन्यथा न तु) व्य.म.p.217, वीर.p.438.

689-690 स.वि.p.311.

691 स.वि.p.311, वि.चि.p.57, (no name cited).

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त्र्यहं दोह्यं परीक्षेत पञ्चाहाद्ग्राह्यमेव तु।
मुक्तावज्रप्रवालानां सप्ताहं स्यात्प्रवीक्षणम्।।६९३

द्विपदामर्धमासं तु पुंसां तद्द्विगुणं स्त्रियाः।
दशाहं सर्वबीजानामेकाहं लोहवाससाम्।।६९४

अतोऽर्वाक्पण्यदोषस्तु यदि संजायते क्वचित्।
विक्रेतुः प्रतिदेयं तत् क्रेता मूल्यमवाप्नुयात्।।६९५

परिभुक्तं तु यद्वासः क्लिष्टरूपं मलीमसम्।
सदोषमपि तत्क्रीतं विक्रेतुर्न भवेत्पुनः।।६९६

साधारणं तु यत्क्रीतं नैको दद्यान्नराधमः।
नादद्यान्न च गृह्णीयाद्विक्रीयाच्च न चैव हि।।६९७

क्रीत्वा मूल्येन यत्पण्यं दुष्क्रीतं मन्यते क्रयी।
विक्रेतुः प्रतिदेयं तत्तस्मिन्नेवाह्नयवीक्षितम्।।६९८

द्वितीयेऽह्नि ददत् क्रेता मूल्यात् त्र्यंशांशमाहरेत्।
द्विगुणं तु तृतीयेऽह्नि परतः क्रेतुरेव तत्।।६९९

द्रव्यस्वं पञ्चधा कृत्वा त्रिभागो मूल्यमुच्यते।
लाभश्चतुर्थो भागः स्यात् पञ्चमः सत्यमुच्यते।।७००

सन्धिश्च परिवृत्तिश्च विषमा वा त्रिभोगतः।
आज्ञयापि क्रयश्चापि दशाब्दं विनिवर्तयेत्।।७०१

ज्ञात्यादीनननुज्ञाप्य समीपस्थाननिन्दितान्।
क्रयविक्रयधर्मोऽपि भूमेर्नास्तीति निर्णयः।।७०२

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692 स.वि.p.312, वीर.p.441 and वि.चि.p.199 ascribe to बृहस्पति.

693-695 स.वि.p.316, वि.र.p.199 ascribes first to नारद and third to बृहस्पति, वि.चि.p.57 ascribes first two to व्यास and नारद and the third (p.58) to बृहस्पति, परा.मा.III.p.361 ascribes all three to व्यास and वीर.p.433 ascribes all to नारद. The first two verses are Narada 12. 5-6.

696 स.वि.p.317, परा.मा.p.364 and व्य.म.p.217 ascribes it to नारद (it is नारद 12.7).

697-699 स.वि.p.317, परा.मा.p.363 ascribes 698 to नारद (it is नारद 12.7).

700 स.वि.p.318.

701 स.वि.p.320.

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स्वग्रामे दशरात्रं स्यादन्यग्रामे त्रिपक्षकम्।
राष्ट्रान्तरेषु षण्मासं भाषाभेदे तु वत्सरम्।।७०३

पलायिते तु करदे करप्रतिभुवा सह।
करार्थं करदक्षेत्रं विक्रीणीयुः सभासदः।।७०४

समवेतैस्तु सामन्तैरभिज्ञैः पापभीरुभिः।
क्षेत्रारामगृहादीनां द्विपदां च चतुष्पदाम्।।७०५

कल्पितं मूल्यमित्याहुर्भागं कृत्वा तदष्टधा।
एकभागातिरिक्तं वा हीनं वानुचितं स्मृतम्।।७०६

समाः शतमतीतेऽपि सर्वं तद्विनिवर्तते।
क्रयविक्रयणे क्रय्यं यन्मूल्यं धर्मतोऽर्हति।।७०७

तत्तुर्ये पञ्चमे षष्ठे सप्तमेंऽशेऽष्टमेऽपि वा।
हीनो(ने) यदि विनिर्वृत्ते क्रयविक्रयणे सति।।७०८

हीनमूल्यं तु तत्सर्वं कृतमप्यकृतं भवेत्।
उक्तादल्पतरे हीने क्रये (यो?) नैव प्रदुष्यति।।७०९

तेनाप्यंशेन हीयेत मूल्यतः क्रयविक्रये।
कतमप्यकृतं प्राहुरन्ये धर्मविदो जनाः।।७१०

अर्धाधिके क्रयः सिध्येदुक्तलाभो दशाधिकः (द्विकः)।
अवक्रयस्त्रिभागो (भोगेन) सद्य एव रुचिक्रयः।।७११

मूल्यात्स्वल्पप्रदानेऽपि क्रयसिद्धिः कृता भवेत्।
चक्रवृद्ध्यां प्रदातव्यं देयं तत्समयाद्दते।।७१२

६२ (अभ्युपेत्याशुश्रूषा) ७१३-७३१

यस्तु न ग्राहयेच्छिल्पं कर्माण्यन्यानि कारयेत्।

702-703 स.वि.p.318.
704 स.वि.p.324
705-706 स.वि.p.325
707-710 स.वि.p.325-326
711 स.वि.p.326.
712 स.वि.p.327

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प्राप्नुयात्साहसं पूर्वं तस्माच्छिष्यो निवर्तते।।७१३

शिक्षितोऽपि श्रितं काममन्तेवासी समाचरेत्।
तत्र कर्म च यत्कुर्यादाचार्यस्यैव तत्फलम्।।७१४

स्वतन्त्रस्यात्मनो दानाद्दासत्वं दारवद्भृगुः।
त्रिषु वर्णेषु विज्ञेयं दास्यं विप्रस्य न क्वचित्।।७१५

वर्णानामानुलोम्येन दास्यं न प्रतिलोमतः।
राजन्यवैश्यशूद्राणां त्यजतां हि स्वतन्त्रताम्।।७१६

समवर्णोऽपि विप्रं तु दासत्वं नैव कारयेत्।
ब्राह्मणस्य हि दासत्वान्नृपतेजो विहन्यते।।७१७

क्षत्रविट्शूद्रधर्मस्तु समवर्णे कदाचन।
कारयेद्दासकर्माणि ब्राह्मणं न बृहस्पतिः।।७१८

शीलाध्ययनसंपन्ने तदूनं कर्म कामतः।
तत्रापि नाशुभं किंचित्प्रकुर्वीत द्विजोत्तमः।।७१९

विण्मूत्रोन्मार्जनं चैव नग्नत्वपरिमर्दनम्।
प्रायो दासीसुताः कुर्युर्गवादिग्रहणं च यत्।।७२०

प्रव्रज्यावसिता यत्र त्रयो वर्णा द्विजादयः।
निर्वासं कारयेद्विप्रं दासत्वं क्षत्रविड् नृपः।।७२१

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713 अपरार्क p.790, स्मृतिच.III.p.457, परा.मा.III.p.338, वि.र.p.141, वीर.p.403, स.वि.p.290.

714 स.वि.p.290, स्मृतिच.III.p.457 (शिक्षितोपि कृतं कलिमन्ते) वीर.p.403 ascribes to नारद and reads as स्मृतिच does.

715 अपरार्क p.788, स्मृतिच.III.p.460, वि.र.p.152, व्य.म.p.206-207, वीर.p.405.

716 अपरार्क p.788, स्मृतिच.III.p.461, (वर्णक्रमानु), परा.मा.III.p.341, वि.र.p.152, स.वि.p.269 (reads the line त्रिषु वर्णेषु and वर्णानामामु as one verse).

717-718 अपरार्क p.789 (puts verse 718 between the two halves of 717), स्मृतिच.III.pp.461-62, (reads समवर्णेपि), परा.मा.III.p.342 (reads असवर्णे तु,विप्रस्य and श्रुताध्यथनसपन्नं), वि.र.p.152 (order like that in अपरार्क), व्य.म.p.207 and वीर.p.407 (omit the line ब्राह्मणस्य हि &c).

719 स्मृतिच.III.p.461, वि.र.p.152, वि.चि.p.47.

720 वि.र.p.144

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शूद्रं तु कारयेद्दासं क्रीतमक्रीतमेव वा।
दास्यायैव हि सृष्टः स स्वयमेव स्वयम्भुवा।।७२२

स्वदासीं यस्तु संगच्छेत्प्रसूता च भवेत्ततः।
अवेक्ष्य बीजं कार्या स्यान्न दासी सान्वया तु सा।।७२३

दासस्य तु धनं यत्स्यात्स्वामी तस्य प्रभुः स्मृतः।
प्रकाशं विक्रयाद्यत्तु न स्वामी धनमर्हति।।७२४

दासेनोढा त्वदासी या सापि दासीत्वमाप्नुयात्।
यस्माद्भर्ता प्रभुस्तस्याः स्वाम्यधीनः प्रभुर्यतः।।७२५

आदद्याद् ब्राह्मणीं यस्तु विक्रीणीत तथैव च।
राज्ञा तदकृतं कार्यं दण्ड्याः स्युः सर्व एव ते।।७२६

कामात्तु संश्रितां यस्तु दासीं कुर्यात्कुलस्त्रियम्।
संक्रामयेत वान्यत्र दण्ड्यस्तच्चाकृतं भवेत्।।७२७

बालधात्रीमदासीं न दासीमिव भुनक्ति यः।
परिचारकपत्नीं वा प्राप्नुयात्पूर्वसाहसम्।।७२८

विक्रोशमानां यो भक्तां दासीं विक्रेतुमिच्छति।
अनापदिस्थः शक्तः सन्प्राप्नुयाद् द्विशतं दमम्।।७२९

तवाहमिति चात्मानं योऽस्वतन्त्रः प्रयच्छति।
न स तं प्राप्नुयात्कामं पूर्वस्वामी लभेत तम्।।७३०

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721 अपरार्क p.787, स्मृतिच.III.p.466, (reads क्षत्रविड्भृगुः), परा.मा.III.p.345, (दासत्वं क्षत्रियं विशः), स.वि.p.293, वि.चि.p.43-44, व्य.म.p.207 (क्षत्रियं भृगुः), वीर.p.406 (विड् भृगुः).

722 स.वि.p.296. This is मनु 413 (which reads ब्राह्मणस्य स्वयम्भुवा).

723 स्मृतिच.III.p.468 (स्यान्न दासी), वि.र.p.148, व्य.म.p.210, वीर.p.412.

724 स्मृतिच.III.p.469, (first half) वि.र.p.150, वि.चि.p.46 (reads प्रसादविक्रयात्तु), व्य.मा.p.211 and वीर.413 (first half only).

725 स्मृतिच.III.p.469, स.वि.p.194 (यस्तद्भर्ता and प्रभुस्तयोः), वि.चि.46 व्य.म.p.211, वीर.412.

726-729 अपरार्क p.789, (reads महादासीं for अदासी च and भक्तदासीं), वि.र.p.154-155 (reads भुक्तां for भक्तां), वि.चि.47, व्य.म.p.208, वीर.p.413.

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प्रव्रज्यावसितो दासो मोक्तव्यश्च न केनचित्।
अनाकालभृतो दास्यान्मुच्यते गोयुगं ददत्।।७३१

६३ (सीमाविवादः) ७३२-७६५

आधिक्यं न्यूनता चांशे अस्तिनास्तित्वमेव च।
अभोगभुक्तिः सीमा च षट् भूवादस्य हेतवः।।७३२

तस्मिन् भोगः प्रयोक्तव्यः सर्वसाक्षिषु तिष्ठति।
लेख्यारूढश्चेतरश्च साक्षी मार्गद्वयान्वितः।।७३३

क्षेत्रवास्तुतडागेषु कूपोपवनसेतुषु।
द्वयोर्विवादे सामन्तः प्रत्ययः सर्ववस्तुषु।।७३४

सामन्तभावेऽसामन्तैः कुर्यात्क्षेत्रादिनिर्णयम्।
ग्रामसीमासु च तथा तद्वन्नगरदेशयोः।।७३५

ग्रामो ग्रामस्य सामन्तः क्षेत्रं क्षेत्रस्य कीर्तितम्।
गृहं गृहस्य निर्दिष्टं समन्तात् परिरभ्य हि।।७३६

तेषामभावे सामन्तमौलवृद्धोद्धृतादयः।
स्थावरे षट्प्रकारेऽपि नात्र कार्या विचारणा।।७३७

संसक्तास्त्वथ सामन्तास्तत्संसक्तास्तथोत्तराः।
संसक्तसक्तसंसक्ताः पद्माकाराः प्रकीर्तिताः।।७३८

स्वार्थसिद्धौ प्रदुष्टेषु सामन्तेष्वर्थगौरवात्।
तत्संसक्तैस्तु कर्तव्य उद्धारो नात्र संशयः।।७३९

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730 स.वि.p.294, वि.चि.p.44 (no name) वीर.p.411 (ascribes to नारद).
731 स.वि.p.293. The two halves seem to be parts of different verses.
732 मिता on या.II.150, स्मृतिच.III.p.544, वि.र.p.201 (अभोगे भुक्तिः) वीर.p.451, अपरार्क p.759.
733 अपरार्क p 759, वि.र.p.205 (स च साक्षिषु).
734 वि.चि.207.
735 अपरार्क p.760, वीर.p.456 (समेतभावात्सामन्तैः) परा.मा.III.p.397, (reads सीमान्तवासिसामन्तैः).
736 स्मृतिच.III.p.545, वि.र.p.207, अपरार्क p.759, वीर.p.454.
737 मिता on या.II.152, स्मृतिच.III.p.545, वि.र.p.206, वि.चि.p.61, वीर.p.456.
738 मिता on या.II.152, अपरार्क p.760, स्मृतिच.III.p.537-538, परा.मा.III.p.389, वि.र.p.213 (reads सक्तसक्तान्ताः).

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संसक्तसक्तदोषे तु तत्ससंसक्ताः प्रकीर्तिताः।
कर्तव्या न प्रदुष्टास्तु राज्ञा धर्मं विजानता।।७४०

नाज्ञानेन हि मुच्यन्ते सामन्ता निर्णयं प्रति।
अज्ञानोक्तौ दण्डयित्वा पुनः सीमां विचारयेत्।
कीर्तिते यदि भेदः स्यात् दण्ड्यास्तूत्तमसाहसम्।।७४१

त्यक्त्वा दुष्टांस्तु सामन्तानन्यान्मौलादिभिः सह।
संमिश्र्य कारयेत्सीमामेवं धर्मविदो विदुः।।७४२

ये तत्र पूर्वं सामन्ताः पश्चाद्देशान्तरं गताः।
तन्मूलत्वात्तु ते मौला ऋषिभिः सम्प्रकीर्तिताः।।७४३

निष्पाद्यमानं यैर्दृष्टं तत्कार्यं नृगुणान्वितैः।
वृद्धा वा यदि वाऽवृद्धास्ते वृद्धाः परिकीर्तिताः।।७४४

उपश्रवणसम्भोगकार्याख्यानोपचिह्नितः।
उद्धरन्ति ततो यस्मादुद्धृतास्ते ततः स्मृतः।।७४५

सामन्ताः साधनं पूर्वमनिष्टोक्तौ गुणान्विताः।
द्विगुणास्तूत्तरा ज्ञेया ततोऽन्ये त्रिगुणा मताः।।७४६

एको यद्धन्नयेत्सीमामुभयोरीप्सितः क्वचित्।
मस्तके क्षितिमारोप्य रक्तवासाः समाहिताः।।७४७

भयवर्जितभूपेन सर्वाभावे स्वयंकृता।।७४८

क्षेत्रकूपतडागानां केदारारामयोरपि।
गृहप्रासादावसथनृपदेवगृहेषु च।।७४९

739-740 मिता on या.II.152, अपरार्क p.760, (reads तत्संसक्तेषु कर्तव्य), स्मृतिच.III.p.538, (omits latter half of 740), वीर.p.454-55, वि.र.p.207.

741 मिता on या.II.153, अपरार्क p.763, वीर.p.460 (the two latter halves only), परा.मा.III.pp.397-398 (two latter halves), वि.र.p.207.

742 मिता on या.II.153, अपरार्क p.760, परा.मा.III.p.398, (संमीस्य for संमिश्र्य), स्मृतिच.III. p.538, (reads संमर्श्यः), वि.र.p.208 (reads समीक्ष्य) वीर.p.455.

743-745 मिता on या.II.152, (निर्दोषाः स्युगुणा), अपरार्क p 760, स्मृतिच.III.p.540, वि.र.p.208, वीर.p.456 (ascribes to ममु).

746 अपरार्क.p.762.

747 वि.र.p.216.

748 मिता on या.II.154, वि.र.p.218, वीर.p.457.

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बहूनां तु गृहीतानां न सर्वे निर्णयं यदि।
कुर्युर्भयाद्वा लोभाद्वा दाप्यास्तूत्तमसाहसम्।।७५०
सीमाचङ्क्रमणे क्रोशे पादस्पर्शे तथैव तु।
त्रिपक्षपक्षसप्ताहं दैवराजिकमिष्यते।।७५१
मेखलाभ्रमनिष्कासगवाक्षान्नोपरोधयेत्।
प्रणालीं गृहवास्तुं च पीडयन्दण्डभाग्भवेत्।।७५२
निवेशसमयादूर्ध्वं नैते योज्याः कदाचन।
दृष्टिपातं प्रणालीं च न कुर्यात् परवेश्मसु।।७५३
विण्मूत्रोदकवप्रं च वह्निश्वभ्रनिवेशनम्।
अरत्निद्वयमुत्सृज्य परकुड्यान्निवेशयेत्।।७५४
सर्वे जनाः सदा येन प्रयान्ति स चतुष्पथः।
अनिरुद्धो यथाकालं राजमार्गः स उच्यते।।७५५
न तत्र रोपयेत्किञ्चिन्नोपहन्यात्तु केनचित्।
गुर्वाचार्यनृपादीनां मार्गादानात्तु दण्डभाक्।।७५६
यस्तत्र सङ्करश्वभ्रान्वृक्षारोपणमेव च।
कामात्पुरीषं कुर्याच्च तस्य दण्डस्तु माषकः।।७५७
तटाकोद्यानतीर्थानि योऽमेध्येन विनाशयेत्।
अमेध्यं शोधयित्वा तु दण्डयेत्पूर्वसाहसम्।।७५८
दूषयेत्सिद्धतीर्थानि स्थापितानि महात्मभिः।
पुण्यानि पावनीयानि प्राप्नुयात्पूर्वसाहसम्।।७५९

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750 मिता on या.II.152, अपरार्क p.763, परा.मा.III.p.397, स्मृतिच.III.p.546, व्य.म.p.222, वीर.p.460.

751 मिता on या.II.152, अपरार्क p.763, स्मृतिच.III.p.543, व्य.म.p.222, वीर.p.458.

752-753 अपरार्क pp.764-765, वि.र.p.219 (omits the line निवेश), व्य.म.p.223, वीर.p.463. स्मृतिच.III.p.551 has 753 and reads दृष्टिप्रासं.

754 अपरार्क p.765 (चक्रं च), स्मृतिच.III.p.551, परा.मा.p.400 (reads चक्रं च), वि.र.p.220 (चक्रं च), व्य.म.p.224, वीर.p.464.

755 स्मृतिच.III.p.552, वि.र.p.221, (reads जनपदा and यथाकामं), व्य.म.p.224, वीर.p.464 (अनिषिद्धा).

756-757 वि.र.p.221, अपरार्क p.765 and परा.मा.p.401 ascribe 757 to बृहस्पति.

758-759 स्मृतिच.III.p.553, अपरार्क p.765, वि.र.p.222, (reads धान्यानि वापनीयानि), परा.मा.p.402, व्य.म.p.225, वीर.p.465.

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सीमामध्ये तु जातानां वृक्षाणां क्षेत्रयोर्द्वयोः।
फलं पुष्पं च सामान्यं क्षेत्रस्वामिषु निर्दिशेत्।।७६०
अन्यक्षेत्रे तु जातानां शाखा यत्रान्यसंश्रिताः।
स्वामिनं तं विजानीयाद्यस्य क्षेत्रेषु संश्रिताः।।७६१
अस्वाम्यनुमतेनैव संस्कारं कुरुते तु यः।
गृहोद्यानतटाकानां संस्कर्ता लभते न तु।।७६२
व्ययं स्वामिनि चायाते न निवेद्य नृपे यदि।
अथावेद्य प्रयुक्तस्तु तद्गतं लभते व्ययम्।।७६३
अशक्तितो न दद्याच्चेत् खिलार्थो यत्कृतो व्ययः।
तदष्टभागहीनं तु कर्षकः फलमाप्नुयात्।।
वर्षाण्यष्टौ स भोक्ता स्यात्परतः स्वामिने तु तत्।।७६४
अशक्तप्रेतनष्टेषु क्षेत्रिकेष्वनिवारितः।
क्षेत्रं चेद्विकृषेत्कश्चिदश्नुवीत स तत्फलम्।।७६५
विकृष्यमाणे क्षेत्रे च क्षेत्रिकः पुनराव्रजेत्।
शीलोपचारं (खिलोपचारं) तत्सर्वं दत्त्वा क्षेत्रमवाप्नुयात्।।७६६
तदष्टभागापचयाद् यावत्सप्त गताः समाः।
समाप्तेऽष्टमे वर्षे भुक्तक्षेत्रं लभेत सः।।७६७

६४ (वाक्यपारुष्यम्) ७६८-७७८

हुङ्कारः कासनं चैव लोके यच्च विगर्हितम्।
अनुकुर्यादनुब्रूयाद् वाक्पारुष्यं तदुच्यते।।७६८
निष्ठुराश्लीलतीव्रत्वात्तदपि त्रिविधं स्मृतम्।
आक्षेपो निष्ठुरं ज्ञेयमश्लीलं न्यङ्गसंज्ञितम्।

760-761 अपरार्क p.766 (reads संस्थिताः for संश्रिताः in both lines), स्मृतिच.III.p.555, परा.मा.III.p.404, वि.र.p.223, व्य.म.p.225, वीर.p.417 (reads यस्य क्षेत्रस्य).
762-763 अपरार्क p.767, (reads देयं स्वामिनि and लभते फलम्), स्मृतिच.III.p.558, वि.र.p.225, (reads देयं स्वामिनि), परा.मा.III.p.407, स.वि.p.340 (has only 762).
764 अपरार्क p.768 (reads खिलार्थे च कृतं व्ययं and कर्षकात्फल), स्मृतिच.III.p.560, परा.मा.III.p.409, वि.चि.p.65, वीर.p.470, स.वि.p.340.
765-767 स.वि.p.340, परा.मा.pp.408-409 and स्मृतिच.III.p.560 ascribe 765-766 to नारद.
768 अपरार्क p.805, स्मृतिच.III.p.18.

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पतनीयैरुपाक्रोशैस्तीव्रमाहुर्मनीषिणः।।७६९
यस्त्वसत्संज्ञितैरङ्गैः परमाक्षिपति क्वचित्।
अभूतैर्वाथ भूतैर्वा निष्ठुरा वाक्स्मृता बुधैः।।७७०
न्यग्भावकरणं वाचा क्रोधात्तु कुरुते यदा।
वृत्तदेशकुलादीनामश्लीला सा बुधैः स्मृता।।७७१
महापातकयोक्त्री च रागद्वेषकरी च या।
जातिभ्रंशकरी वाथ तीव्रा सा प्रथिता तु वाक्।।७७२
योऽगुणान् कीर्त्तयेत्क्रोधान्निर्गुणे वा गुणज्ञताम्।
अन्धसंज्ञानुयोगी वा वाग्दुष्टं तं नरं विदुः।।७७३
अदुष्टस्यैव यो दोषान् कीर्त्तयेद्दोषकारणात्।
अन्यापदेशवादी च वाग्दुष्टं तं नरं विदुः।।७७४
मोहात् प्रमादात्सङ्घर्षात् प्रीत्या चोक्तं मयेति यत्।
नाहमेवं पुनर्वक्ष्ये दण्डार्धं तस्य कल्पयेत्।।७७५
यत्र स्यात्परिहारार्थं पतितस्तेन (पतितत्वेन?) कीर्तनम्।
वचनात्तत्र न स्यात्तु दोषो यत्र विभावयेत्।।७७६
अन्यथा तुल्यदोषः स्यान्मिथ्योक्तौ तूत्तमः स्मृतः।।७७७
महता प्रणिधानेन वाग्दुष्टं साधयेन्नरम्।
अतथ्यं श्रावितं राजा प्रयत्नेन विचारयेत्।।
अनृताख्यानशीलानां जिह्वाच्छेदो विशोधनम्।।७७८

६५ (दण्डपारुष्यम्) ७७९-७९४

हेत्वादिभिर्न पश्येच्चेद्दण्डपारुष्यकारणम्।

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769 अपरार्क p.805.

770-772 अपरार्क pp.805-806, (reads न्यङ्गावगूरणं and राजद्वेष), for रागद्वेष), स्मृतिच.III.p.12-13 (reads अङ्गैः and वृत्तेर्देश), परा.मा.III.p.429 (reads परस्याक्षिपत्ति, अमूलैर्वाथ मूलैर्वा and वृत्तेर्देश), वि.र.p.243, (reads न्यङ्गावगूरणं वाचा), वीर.p.482.

773 वि.र.p.244 and वीर.p.484 (reads अन्यसंज्ञानियोजी)

774 वि.र.p.245, स्मृतिच.III.p.760 ascribes नारद (and reads दुष्टस्यैव तु).

775 वि.र.p.244 and वि.चि.p.70, (ascribe to उशनास् and कात्यायन) स्मृतिच.III.p.759 and व्य.म.p.229 ascribe to उशनास्.

776 स्मृतिच.III.p.760, वि.र.p.258, वीर.p.484.

777 वि. .p.258.

778 वि.र.p.258, वीर.p.488 (last half).

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तत्र साक्षिकृतं चैव दिव्यं वा विनियोजयेत्।।७७९

आभीषणेन दण्डेन प्रहरेद्यस्तु मानवः।
पूर्वं चापीडितो वाथ स दण्डयः परिकीर्तितः।।७८०

कर्णौष्ठघ्राणणदाक्षिजिह्वाशिश्नकरस्य च।
छेदने चोत्तमो दण्डो भेदने मध्यमो भृगुः।।७८१

मनुष्याणां पशूनां च दुःखाय प्रहते सति।
यथा यथा भवेद् दुःखं दण्डं कुर्यात्तथा तथा।।७८२

अस्पृश्यधूर्तदासानां म्लेच्छानां पापकारिणाम्।
प्रतिलोमप्रसूतानां ताडनं नार्थतो दमः।।७८३

छर्दिमूत्रपुरीषाद्यैरापाद्यः स चतुर्गुणः।
षड्गुणः कायमध्ये स्यात् मूर्ध्नित्वष्टगुणः स्मृतः।।७८४

उद्धूरणे तु हस्तस्य कार्यो द्वादशको दमः।
स एव द्विगुणः प्रोक्तः पातनेषु स्वजातिषु।।७८५

वाक्पारुष्ये यथैवोक्ताः प्रातिलोम्यानुलोमतः।
तथैव दण्डपारुष्ये पात्या दण्डा यथाक्रमम्।।७८६

देहेन्द्रियविनाशे तु यथा दण्डं प्रकल्पयेत्।
तथा तुष्टिकरं देयं समुत्थानं च पण्डितैः।।
समुत्थानव्ययं चासौ दद्यादाव्रणरोपणात्।।७८७

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779 अपरार्क p.811, वि.र.p.274, वि.चि.p.77, वीर.p.484-82.

780 अपरार्क p.812, परा.मा.III.p.412 (reads अभीषणेन) वि.र.p.246, वि.चि.p.77.

781 अपरार्क p.812, (no author named; reads गुरु for भृगुः) स्मृतिच.III.p.762, वि.र.p.265 (reads घ्राणनासाक्षि) परा.मा.III.p. (पादादिजिह्वानासाकरस्थ), वि.चि.p.74, व्य.म.p.230, वीर.p.474.

782 परा.मा.III.p.417, वीर.p.475 (reads यथा महत्तरं दुःखं).

783 अपरार्क .p.813 वि.र.p.278, वि.चि.p.78.

784 अपरार्क p.813, परा.मा.p.413 (reads द्वैः पादादौ च) वि.र.p.262, वि.चि.p.72, व्य.म.p.230, वीर.p.473, (द्वैः स्पर्शने च).

785 वि.र.p.262, (reads सजातिषु), परा.मा.III.p.414, वि.चि.p.73, वीर.p.473.

786 स्मृतिच.III.p.762, परा.मा.III.p.418, वि.र.p.269, स.वि.p. 481, व्य.म.p.231, वीर.p.476.

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वाग्दण्डस्ताडनं चैव येषूक्तमपराधिषु।
हृतं भग्नं प्रदाप्यास्ते शोध्यं निःस्वैस्तु कर्मणा।।७८८

श्रान्तां स्तृषार्तान्क्षुधितानकाले वाहयेन्नरः।
खरगोमहिषोष्ट्रादीन्प्राप्नुयात्पूर्वसाहसम्।।७८९

द्विपणो द्वादशपणो वधे तु मृगपक्षिणाम्।
सर्पमार्जारनकुलश्वसूकरवधे नृणाम्।।७९०

गोकुमारीं देवपशुमृक्षाणं वृषभं तथा।
वाहयन् साहसं पूर्वं प्राप्नुयादुत्तमं वधः।।७९१

प्रमापणे प्राणभृतां दद्यात्तत्प्रतिरूपकम्।
तस्यानुरूपं मूल्यं वा दद्यादित्यब्रवीन्मनुः।।७९२

वनस्पतीनां सर्वेषामुपभोगो यथा यथा।
तथा तथा दमः कार्यो हिंसायामिति धारणा।।७९३

शिष्यं क्रोधेन हन्याच्चेदाचार्यो लतया विना।
येनात्यर्थं भवेत्पीडा वादः स्याच्छिष्यतः पितुः।।७९४

६६ (साहसम्) ७९५-८०९

सहसा यत्कृतं कर्म तत्साहसमुदाहृतम्।।७९५

सान्वयस्त्वपहारो यः प्रसह्य हरणं च यत्।
साहसं च भवेदेवं स्तेयमुक्तं विनिह्नवः।।७९६

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787 स्मृतिच.III.p.765, अपरार्क p.816, परा.मा.III.p.419-420, व्य.म.p.232, वीर.p.476-77.
788 अपरार्क p.816, वि.र.p.270.
789 अपरार्क p.818, वि.र.p.280.
790 परा.मा.III.p.424, वि.र.p.279 (reads त्रिपणो), वीर.p.479 (reads नकुलसूकराश्ववधे).
791 वीर.p.479, परा.मा.III.p.424 (पशुमक्षमं वृषभं and वधे) ascribes to मनु.
792 परा.मा.p.425, वि.र.p.284, (प्रतिरूपं तु दापयेत्).
793 वि.र.p.284.
794 स्मृतिच.III.p.2.
795 स.वि.p.451.
796 स्मृतिच.III.p.733, वि.र.p.287 (reads सान्वयस्तु प्रहारो), स.वि.p.457 (reads विनिह्नवे).

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विना चिह्नैस्तु यत्कार्यं साहसाख्यं प्रवर्तते।
शपथैः स विशोध्यः स्यात्सर्ववादेष्वयं विधिः।।७९७

एकं चेद्बहवो हन्युः संरब्धाः पुरुषं नराः।
मर्मघातो तु यस्तेषां स घातक इति स्मृतः।।७९८

व्यापादनेन तत्कारी वधं चित्रमवाप्नुयात्।
विनाशहेतुमायान्तं हन्यादेवाविचारयन्।।७९९

उद्यतानां तु पापानां हन्तुर्दोषो न विद्यते।
निवृत्तास्तु यदारम्भाद् ग्रहणं न वधः स्मृतः।।८००

आततायिनि चोत्कृष्टे तपः स्वाध्यायजन्मतः।
वधस्तत्र तु नैव स्यात्पापे हीने वधो भृगुः।।८०१

उद्यतासिविषाग्निश्च चापोद्यतकरस्तथा।
आथर्वणेन हन्ता च पिशुनश्चैव राजनि।।८०२

भार्यातिक्रमकारी च रन्ध्रान्वेषणतत्परः।
एवमाद्यान्विजानीयात्सर्वानेवाततायिनः।।८०३

यशोवृत्तहरान्पापानाहुर्धर्मार्थहारकान्।
अनाक्षारितपूर्वो यस्त्वपराधे प्रवर्तते।।
प्राणद्रव्यापहारे च तं विद्यादाततायिनम्।।८०४

नखिनां शृङ्गिणां चैव दंष्ट्रिणां चाततायिनाम्।
हस्त्यश्वानां तथान्येषां वधे हन्ता न दोषभाक्।।८०५

गर्भस्य पातने स्तेनो ब्राह्मण्यां शस्त्रपातने।
अदुष्टां योषितं हत्वा हन्तव्यो ब्राह्मणोऽपि हि।।८०६

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797 स्मृतिच.III.p.722, परा.मा.III.p.453.

798 स्मृतिच.III.p.723, परा.मा.III.p.454, वीर.p.501.

799 वि.र.p.371 (first half only), स्मृतिच.III.p.727 (latter half only), the two halves are parts of different verses.

800 स्मृतिच.III.p.729.

801 स्मृतिच.III.p.730, व्य.म.p.230.

802-803 स्मृतिच.III.p.731, व्य.म.p.241.

804 स्मृतिच.III.p.731.

805 स्मृतिच.III.p.732.

806 विश्वरूप on या.II.p.281.

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क्षतं भङ्गोपमर्दौ च कुर्याद्द्रव्येषु यो नरः।
प्राप्नुयात्साहसं पूर्वं द्रव्यभाक्स्वाम्युदाहृतः।।८०७

हरेद्भिन्द्याद्दहेद्वापि देवानां प्रतिमां यदि।
तद्गृहं चैव यो भिन्द्यात्प्राप्नुयात्पूर्वसाहसम्।।८०८

प्राकारं भेदयेद्यस्तु पातयेच्छातयेत्तथा।
बध्नीयादम्भसो मार्गं प्राप्नुयात्पूर्वसाहसम्।।८०९

६७ (स्तेयम्) ८१०-८२८

प्रच्छन्नं वा प्रकाशं वा निशायामथवा दिवा।
यत्परद्रव्यहरणं स्तेयं तत्परिकीर्तितम्।।८१०

अन्यहस्तात्परिभ्रष्टमकामादुद्धृतं भुवि।
चौरेण वा परिक्षिप्तं लोष्त्रं यन्नात्परीक्षयेत्।।८११

तुलामानप्रतिमानप्रतिरूपकलक्षितैः।
चरन्नलक्षितैर्वापि प्राप्नुयात्पूर्वसाहसम्।।८१२

गृहे तु मुषितं राजा चौरग्राहांस्तु दापयेत्।
आरक्षकांश्च दिक्पालान्यदि चौरो न लभ्यते।।८१३

ग्रामान्तरे हृतं द्रव्यं ग्रामाध्यक्षं प्रदापयेत्।
विवीते स्वामिना देयं चौरोद्धर्ताविवीतके।।८१४

स्वदेशे यस्य यत्किंचिद्धृतं देयं नृपेण तु।
गृह्णीयात्तत्स्वयं नष्टं प्राप्तमन्विष्य पार्थिवः।।८१५

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807 अपरार्क p.820, वि.र.p.353, वि.चि.p.97-98.

808 अपरार्क p.822, स्मृतिच.III.p.757, वि.र.p.364, वि.चि.p.801 (reads छिन्द्यात् for भिन्द्यात्), स.वि.p.474.

809 वि.र.p.367.

810 दायभाग p.224.

811 अपरार्क p.841, मिता on या II.268 (ascribes to नारद) वि.र.p.337, परा.मा.III.p.437, (ascribes to नारद).

812 वि.र.p.295, वि.चि.p.80.

813-814 अपरार्क p.844, (reads अरक्षकान्) वि.र.343, 345 (reads ग्रामान्तेषु and त्वविवीतके), वि.चि.p.94-95 (reads ग्रामान्तेषु and चौरोद्धर्त्रा विवीतके).

815-819 अपरार्क p.844, वि.र.p.345-346 (ascribes them to वृद्धमनु).

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चौरैर्हृतं प्रयत्नेन स्वरूपं प्रतिपादयेत्।
तदभावे तु मूल्यं स्यादन्यथा किल्बिषी नृपः।।८१६

लब्धेऽपि चौरे यदि तु मोषस्तस्मान्न लभ्यते।
दद्यात्तमथवा चौरं दापयेत्तु यथेष्टतः।।८१७

तस्मिंश्चेद्दाप्यमानानां भवेद्दोषे तु संशयः।
मुषितः शपथं दाप्यो बन्धुभिर्वा विशोधयेत्।।८१८

यस्मादपहृताल्लब्धं द्रव्यात्स्वल्पं तु स्वामिना।
तच्छेषमाप्नुयात्तस्मात्प्रत्यये स्वामिना कृते।।८१९

स्वदेशघातिनो ये स्युस्तथा मार्गनिरोधकाः।
तेषां सर्वस्वमादाय राजा शूले निवेशयेत्।।८२०

अचोराद्दापितं द्रव्यं चौरान्वेषणतत्परैः।
उपलब्धे लभेरंस्ते द्विगुणं तत्र दापयेत्।।८२१

येन येन परद्रोहं करोत्यङ्गेन तस्करः।
छिन्द्यादङ्गं नृपस्तस्य न करोति यथा पुनः।।८२२

त्रपुषे वारुके द्वे तु पञ्चाम्रं पञ्चदाडिमम्।
खर्जूरबदरादीनां मुष्टिं गृह्णन्न दुष्यति।।८२२अ।।

मानवाः सद्य एवाहुः सहोढानां प्रवासनम्।
गौतमानामनिष्टं यत्प्राण्युच्छेदाद्विगर्हितम्।।८२३

सहोढमसहोढं वा तत्त्वागमितसाहसम्।
प्रगृह्याच्छिन्नमावेद्य सर्वस्वैर्विप्रयोजयेत्।।८२४

अयः सन्दानगुप्तास्तु मन्दभक्ता बलान्विताः।
कुर्युः कर्माणि नृपतेरामृत्योरिति कौशिकः।।८२५

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820 अपरार्क p.845, वि.र.p.317, (ascribes to नारद and कात्यायन).

821 वि.र.p.338.

822 अपरार्क p.845, (reads करोत्यंशेन), वि.र.p.367, वि.चि.p.91.

823 वि.र.p.332.

824 अपरार्क p.849, वि.र.p.332 (reads संगृह्य चिह्नमावेद्य...र्विनियोजयेत्), वि.चि.p.92 (reads सर्वस्वेन वियोजयेत्)

825 अपरार्क p.849, वि.र.p.332, वि.चि.p.92 (reads मन्दभक्तागुणान्विताः).

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परदेशाद्धृतं द्रव्यं वैदेश्येन यदा भवेत्।
गृहीत्वा तस्य तद्रव्यमदण्डं तं विसर्जयेत्।।८२६
चोराणां भक्तदा ये स्युस्तथाग्न्युदकदायकाः।
केतारश्चैव भाण्डानां प्रतिग्राहिण एव च।
समदण्डाः स्मृता ह्येते ये च प्रच्छादयन्ति तान्।।८२७
अविद्वान्याजको वा स्यात्प्रवक्ता चानवस्थितः।
तावुभौ चोरदण्डेन विनीय स्थापयेत्पथि।।८२८

६८ (स्त्रीसंग्रहणम्) ८२९-८३४

दूतोपचारयुक्तश्चैदवेलास्थानसंस्थितिः।
कण्ठकेशाञ्चलग्राहः कर्णनासाकरादिषु।
एकस्थानासनाहाराः संग्रहो नवधा स्मृतः।।८२९
स्त्रीषु वृत्तोपभोगः स्यात्प्रसह्य पुरुषो यदा।
वधे तत्र प्रवर्तेत कार्यातिक्रमणं हि तत्।।८३०
कामार्ता स्वैरिणी या तु स्वयमेव प्रकामयेत्।
राजादेशेन मोक्तव्या विख्याप्य जनसंनिधौ।।८३१
आरम्भकृत्सहायश्च तथा मार्गानुदेशकः।
आश्रयः शस्त्रदाता च भक्तदाता विकर्मिणाम्।।८३२
युद्धोपदेशकश्चैव तद्विनाशप्रदर्शकः।
उपेक्षाकार्ययुक्तश्च दोषवक्त्रानुमोदकः।।८३३
अनिषेद्धाक्षमो यः स्यात्सर्वे तत्कार्यकारिणः।
यथाशक्त्यनुरूपं तु दण्डमेषां प्रकल्पयेत्।।८३४

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826 अपरार्क p.849, वि.र.p.333, (reads स्वदेशेयः समाहरेत्).

827 परा.मा.III.p.446, वि.र.p.340, वि.चि.p.93 (reads क्रेतारश्चोरभाण्डानां and has last two halves only), वीर.p.498.

828 विश्वरूप.on.III.252.

829 स्मृतिच.III.pp.17-18.

830 स्मृतिच.III.p.742, व्य.म.p.244, (reads कृतोपभोगः) वीर.p.504.

831 अपरार्क p.860.

832-834 अपरार्क p.821, (कार्ययुक्तस्य) परा.मा.III.p.455, (reads धर्मानुदेशकः, तद्विनाश-प्रवर्तकः, वक्तानुमोदकः), वि.र.375 (reads दोषवक्तानु) वि.चि.p.107 (युक्त्योपदेशकश्चैव तथा नाशप्रवर्तकः and दोषवक्तानु), स.वि.p.464 (omits the line अनिषेद् &c) वीर.p.501 (reads दोषवक्तानुदेशकः and दोषवक्तानुमोदकः), स्मृतिच.III.p.723-724 seems to attribute 832-833 to बृहस्पति and cities 834 as स्मृत्यन्तर.

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६९ (स्त्रीपुंधर्मः) ७३५-७३७

पत्या चाप्यवियोगिन्या शुश्रूष्योऽग्निर्विनीतया।
सौभाग्यवदवैधव्यकाम्यया भर्तृभक्तया।।८३५

पतिशुश्रूषयैव स्त्री सर्वान्कामान्समश्नुते।
दिवः पुनरिहायाता सुखानां शेवधिर्भवेत्।।८३६

मृते भर्तरि या साध्वी ब्रह्मचर्ये व्यवस्थिता।
सारुन्धतीसमाचारा ब्रह्मलोके महीयते।।८३७

७० (दायविभागः) ७३८-८६५

सकलं द्रव्यजातं यद्भागैर्गृह्णन्ति तत्समैः।
पितरो भ्रातरश्चैव विभागो धर्म्य उच्यते।।८३८

पैतामहं समानं स्यात्पितुः पुत्रस्य चोभयोः।
स्वयं चोपार्जिते पित्रा न पुत्रः स्वाम्यमर्हति।।८३९

पैतामहं च पित्र्यं च यच्चान्यत्स्वयमर्जितम्।
दायादानां विभागे तु सर्वमेतद्विभज्यते।।८४०

दृश्यमानं विभज्येत गृहं क्षेत्रं चतुष्पदम्।
गूढद्रव्याभिशङ्कायां प्रत्ययस्तत्र कीर्तितः।।८४१

गृहोपस्करवाह्याश्च दोह्याभरणकर्मिणः।
दृश्यमाना विभज्यन्ते कोशं गूढेऽब्रवीद्बृगुः।।८४२

जीवद्विभागे तु पिता नैकं पुत्रं विशेषयेत्।
निर्भाजयेन्न चैवैकमकस्मात्कारणं विना।।८४३

835-837 स्मृतिच.III.p.589, 591, 596.

838 स्मृतिच.III.p.608, स.वि.p.354, व्य.म.p.98, वीर.p.571 (reads पितरौ).

839 स्मृतिच.III.pp.648 and 650.

840 दायभाग.p.105, स्मृतिच.III.p.635, परा.मा.III.p.556, स.वि.p.367, वि.चि.p.134, वि.र.p.496.

841 अपरार्क.p.723, स्मृतिच.III.p.645 (first half) and p.636 (latter half), वि.र.p.498.

842 अपरार्क p.723 (reads कर्मणा, दृश्यमानं विभाज्यं तु), स्मृतिच.III.p.635, परा.मा.III.p.557, वि.र.p.498.

843 वीर.p.559, दायभाग.p.56.

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संप्राप्तव्यवहाराणां विभागश्च विधीयते।
पुंसां च षोडशे वर्षे जायते व्यवहारिता।।८४४

अप्राप्तव्यवहाराणां च धनं व्ययविवर्जितम्।
न्यसेयुर्बन्धुमित्रेषु प्रोषितानां तथैव च।।८४५

प्रोषितस्य तु यो भागो रक्षेयुः सर्व एव तम्।
बालपुत्रे मृते रिक्थं रक्ष्यं तत्तन्तुबन्धुभिः (रक्षितव्यं तु बन्धुमिः?)
पौगण्डाः परतस्तं तु विभजेरन् यथांशतः।।८४५अ।।

भ्रात्रा पितृव्यमातृभ्यां कुटुम्बार्थमृणं कृतम्।
विभागकाले देयं तद्रिक्थिभिः सर्वमेव तु।।८४६

तद्ऋणं धनिने देयं नान्यथैव प्रदापयेत्।
भावितं चेत्प्रमाणेन विरोधात्परतो यदा।।८४७

धर्मार्थं प्रीतिदत्तं च यद्ऋणं स्यान्नियोजितम्।
तद् दृश्यमानं विभजेन्न दानं पैतृकाद्धनात्।।८४८

पित्र्यं पित्र्यर्णसंशुद्धमात्मीयं चात्मना कृतम्।
ऋणमेवं विधं शोध्यं विभागे बन्धुभिः सह।।८४९

ऋणं प्रीतिप्रदानं च दत्त्वा शेषं विभाजयेत्।
द्वयंशहरोऽर्धहरो वा पुत्रवित्तार्जनात्पिता।
मातापि पितरि प्रेते पुत्रतुल्यांशभागिनी।।८५१

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844 अपरार्क p.722.

845 दायभाग.p.62, वीर.p.587.

845A वि.र.p.599.

846 अपरार्क.p.722, हस्दत्त on आप.ध.सू.II.6.14.1, स्मृतिच.III.p.616, व्य.म.p.122, स.वि.356, वि.र.496.

847 अपरार्क.p.722, वि.र.p.497.

848 स्मृतिच.III.p.617 अपरार्क.p.723 and स.वि.356, वि.र.p.497 (reads स्वनियोजितम्).

849 अपरार्क.p.722, स्मृतिच.III.p.635 (latter half), परा.मा.III.p.557 (latter half), वि.र.p.497 and व्य.म.p.122, (पित्र्यर्णसंवद्धम्).

850 परा.मा.III.p.557, स्मृतिच.III.p.635, व्य.म.p.222, वि.र.p.496 (reads रिक्थं प्रीतिप्रदत्तं तु दत्त्वा शेषं विभाजयेत्। आचतुआतु तद्ग्राह्यं क्रमेणैव तु तत्सुतैः)

851 दायभाग.p.49, वीर.p.566

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यथा यथा विभागाप्तं धनं यागार्थतामियात्।
तथा तथा विधातव्यं विद्वद्भिर्भागगौरवम्।।८५२

लोके रिक्थविभागेऽपि न कश्चित्प्रभुतामियात्।
भोग एव तु कर्तव्यो न दानं न च विक्रयः।।८५३

विभक्ता अविभक्ता वा दायादाः स्थावरे समाः।
एको ह्यनीशः सर्वत्रः दानाधमनविक्रये।।८५४

अविभक्तेऽनुजे प्रेते तत्सुतं रिक्थभागिनम्।
कुर्वीत जीवनं येन लब्धं नैव पितामहात्।।८५५

लभेतांशं स पित्र्यं तु पितृव्यात्तस्य वा सुतात्।
स एवांशस्तु सर्वेषां भ्रातृणां न्यायतो भवेत्।
लभेत तत्सुतो वापि निवृत्तिः परतो भवेत्।।८५६

उत्पन्ने चौरसे पुत्रे चतुर्थांशहराः सुताः।
सवर्णासवर्णास्तु ग्रासाच्छादनभाजनाः।।८५७

कन्यकानां त्वदत्तानां चतुर्थो भाग इष्यते।
पुत्राणां तु त्रयो भागाः साम्यं त्वल्पधने स्मृतम्।।८५८

क्षेत्रिकस्य मतेनापि फलमुत्पादयेत्तु यः।
तस्येह भागिनौ तौ तु न फलं हि विनैकतः।।८५९

क्लीबं विहाय पतितं या पुनर्लभते पतिम्।
तस्यां पौनर्भवो जातो व्यक्तमुत्पादकस्य सः।।८६०

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852 स्मृतिच.III.p.618, परा.मा.III.p.490.

853 स्मृतिच.III.p.646.

854 मिता on या.II.p.114 (without name), अपरार्क.p.757, वीर.p.395, वि.चि.p.161 (without name) दायभाग.p.84 ascribes to व्यास.

855-856 अपरार्क.p.727, परा.मा.III.pp.495-96, वीर.p.573, स.वि.373, वि.चि.101, व्य.म.p.101, वि.र.482 (reads मृते पुत्रे).

857 मिता on या.II.p.132, अपरार्क.p.733, परा.मा.III.p.515, स.वि.p.393, वि.चि.150 (reads तृतीयांशहराः and च्छादनभागिनः), वीर.p.615, दायभाग.p.148 (reads तृतीयांशहराः and भागिनः for भाजनाः), मद.पा.p.658.

858 दायभाग.p.69, स्मृतिच.III.p.626, वीर.p.582, वि.र.494.

859-860 वीर.p.604, 608, वि.र.p.564 (has 860 only). वि.र.p.557 has a verse similar to 859, which it ascribes to नारद and कात्यायन. It is क्षेत्रकानुमते बीजं यस्य क्षेत्रे प्रजायते। तदपत्यं तयोरेव बीजिक्षेत्रिकयोर्मतम्।।

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न मूत्रं फेनिलं यस्य विष्ठा चाप्सु निमज्जति।
मेद्रश्चोन्मादशुक्राभ्यां हीनः क्लीबः स उच्यते।।८६१

अक्रमोढासुतश्चैव सगोत्राद्यस्तु जायते।
प्रव्रज्यावसितश्चैव न रिक्थं तेषु चार्हति।।८६२

अक्रमोढासुतस्त्वृक्थी सवर्णश्च यदा पितुः।
असवर्णप्रसूतश्च क्रमोढायां च यो भवेत्।।८६३

प्रतिलोमप्रसूता या तस्याः पुत्रो न रिक्थभाक्।
ग्रासाच्छादनमत्यन्तं देयं तद्बन्धुभिर्मतम्।।८६४

बन्धूनामप्यभावे तु पितृद्रव्यं तदाप्नुयात्।
अपित्र्यं द्रविणं प्राप्तं दापनीया न बान्धवाः।।८६५

७१ (अविभाज्यानि) ८६६-८८४

स्वशक्त्यापहृतं नष्टं स्वयमाप्तं च यद्भवेत्।
एतत्सर्वं पिता पुत्रैर्विभागे नैव दाप्यते।।८६६

परभक्तोपयोगेन विद्या प्राप्तान्यतस्तु या।
तया प्राप्तं धनं यत्तु विद्याप्राप्तं तदुच्यते।।८६७

उपन्यस्ते तु यल्लब्धं विद्यया पणपूर्वकम्।
विद्याधनं तु तद्विद्याद्विभागे न विभज्यते।।८६८

शिष्यादार्त्विज्यतः प्रश्नात् संदिग्धप्रश्ननिर्णयात्।
स्वज्ञानशंसनाद्वादाल्लब्धं प्राध्ययनाच्च यत्।।

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861 दायभाग p.102.

862 दायभाग 103, अपरार्क p.750, स्मृतिच.III.p.630, परा.मा.III.p.546, व्य.म.III.p.163, वि.चि.III.p.133, वीर.p.712, वि.र.p.491.

863-864 दायभाग 103, (reads प्रतिलोमप्रसूतो यः and ग्रासाच्छादनमात्रं तु), व्य.म.p.164, वीर.p.712, वि.र.491, वि.चि.134 (has 863).

865 स्मृतिच.III.p.632, दायभाग.p.103 (reads स्वपित्र्यं तद्धनं), वीर.p.712, (reads स्वपित्र्यं तद्धनं प्राप्तं), वि.र.491 (अपित्र्यं तद्धनं).

866 अपरार्क p.728, स्मृतिच.III.p.651, परा.मा.III.p.498 (reads हृतं द्रव्यं).

867 मिता on य.II.118-119, अपरार्क.p.724, हरदत्त on आप.ध.सू.II.p.14.1, कुल्लक on मनु 9.206, स्मृतिच.III.p.637, परा.मा.III.p.559, मद.पा.p685.

868-870 दायभाग.p.122-123 (reads शिल्पेष्वपि), अपरार्क.p.724, परा.मा.III.p.559, वि.र.502 (reads परभक्तप्रदानेन and शिल्पेष्वपि), वि.चि.p.136, स.वि.p.368, कुल्लूक on मनु 9.206 (has 868-69), स्मृतिच.III.p.637.

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विद्याधनं तु तत्प्राहुर्विभागे न विभज्यते।।८६९
शिल्पिष्वपि हि धर्मोऽयं मूल्याद्यद्याधिकं भवेत्।८७०
परं निरस्य यल्लब्धं विद्यातो द्यूतपूर्वकम्।
विद्याधनं तु तद्विद्यान्न विभाज्यं बृहस्पतिः।।८७१
विद्याप्रतिज्ञया लब्धं शिष्यादाप्तं च यद्भवेत्।
ऋत्विङ्न्यायेन यल्लब्धमेतद्विद्याधनं भृगुः।।८७२
विद्याबलकृतं चैव याज्यतः शिष्यतस्तथा।
एतद्विद्याधनं प्राहुः सामान्यं यदतोऽन्यथा।।८७३
कुले विनीतविद्यानां भ्रातृणां पितृतोऽपि वा।
शौर्यप्राप्तं तु यद्वित्तं विभाज्यं तद्बृहस्पतिः।।८७४
नाविद्यानां तु वैद्येनं देयं विद्याधनात्क्वचित्।
समविद्याधिकानां तु देयं वैद्यन तद्धनम्।।८७५
आरुह्य संशयं यत्र प्रसभं कर्म कुर्वते।
तस्मिन्कर्मणि तुष्टेन प्रसादः स्वामिना कृतः।।
तत्र लब्धं तु यत्किञ्चित् धनं शौर्येण तद्भवेत्।।८७६
शौर्यप्राप्तं विद्यया च स्त्रीधनं चैव यत्स्मृतम्।
एतत्सर्वं विभागे तु विभाज्यं नैव रिक्थिभिः।।८७७
ध्वजाहृतं भवेद्यत्तु विभाज्यं नैव तत्स्मृतम्।
संग्रामादाहृतं यत्तु विद्राव्य द्विषतां बलम्।
स्वाम्यर्थे जीवितं त्यक्त्वा तद्ध्वजाहृतमुच्यते।।८७८

871-872 अपरार्क p.724, वि.र.p.502, स्मृतिच.III.p.637, परा.मा.III.p.559 (reads विद्यातोद्भुतपूर्वकम् and has only 871), व्य.म.p.125, दायभाग.p.123 (has 871only). The परा.मा.स्मृतिच and व्य.म.read 870 after 872.

873 अपरार्क p.724, (reads विद्यापणकृतावेव), स्मृतिच.III.p.637, परा.मा.III.p.559, वि.र.p.502 (reads विद्यापणकृतं चैव).

874 स्मृतिच.III.p.638-39, परा.मा.III.p.560 व्य.म.126, वि.चि.136

875 अपरार्क p.725, स्मृतिच.III.p.639, दायभाग.p.108, व्य.म.p.126, वि.चि.p.136, वि.र.p.500, हरदत्त on आप.ध.सू.II.6.14.1.

876 अपरार्क p.725, स्मृतिच.III.p.639-40, दायभाग.p.126, व्य.म.p.127, वि.चि.p.137.

877 परा.मा.III.p.561.

878 अपरार्क p.725, दायभाग.p.126, स्मृतिच.III.p.640, परा.मा.III.p.561, व्य.म.p.127, वि.चि.p.137.

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यल्लब्धं दानकाले तु स्वजात्या कन्यया सह।
कन्यागतं तु तद्वित्तं शुद्धं वृद्धिकरं स्मृतम्।।८७९

वैवाहिकं तु तद्विद्याद्भार्यया यत्सहागतम्।
धनमेवंविधं सर्वं विज्ञेयं धर्मसाधकम्।।८८०

विवाहकाले यत्किंचिद्वरायोद्दिश्य दीयते।
कन्यायास्तद्धनं सर्वमविभाज्यं च बन्धुभिः।।८८१

धनं पत्रनिविष्टं तु धर्मार्थं च निरूपितम्।
उदकं चैव दासश्च निबन्धो यः क्रमागतः।।८८२

धृतं वस्त्रमलंकारो नानुरूपं तु यद्भवेत्।
यथा कालोपयोग्यानि तथा योज्यानि बन्धुभिः।।८८३

गोप्रचारश्च रक्षा च वस्त्रं यच्चाङ्गयोजितम्।
प्रयोज्यं न विभज्येत धर्मार्थं च बृहस्पतिः।।८८४

देशस्य जातेः सङ्घस्य धर्मो ग्रामस्य यो भृगुः।
उदितः स्यात् स तेनैव दायभागं प्रकल्पयेत्।।८८४अ।।

७२ (प्रच्छादितरिक्थस्य पुनर्विभागः) ८८५-८८८

प्रच्छादितं यदि धनं पुनरासाद्य तत्समम्।
भजेरन्भ्रातृभिः सार्धमभावे हि पितुः सुताः।।८८५

अन्योऽन्यापहृतं द्रव्यं दुर्विभक्तं च यद्भवेत्।
पश्चात्प्राप्तं विभज्येत समभागेन तद्भृगुः।।८८६

879-880 अपरार्क p.723-724, (reads लाभकाले for दानकाले and वृत्ति करं for वृद्धिकरं), स्मृतिच.III.p.640-641, वि.चि.p.137, व्य.म.p.128 (reads लग्नकाले).

881 अपरार्क p.751 (without name), स्मृतिच.III.p.641.

882-884 अपरार्क p.725-726 (reads दाराश्च for दासश्च), व्य.म.p.131 (has 882-883), दायभाग has 884 and reads रथ्या for रक्षा, प्रायोज्यं for प्रयोज्यं and शिल्पार्थं for धमार्थम् वि.र.p.504-505 (दाराश्च for दासश्च and शिल्पार्थं).

884A वि.र.p.505.

885-887 अपरार्क p.732-733 (has 885, first half of 886 and latter half of 887), स्मृतिच.III.p.714-715 (has all three), दायभाग.p.221 (has 885-886 and reads प्रच्छादितं तु यद्येन पुनरागत्य and अभावेपि हि तत्सुताः) वि.चि.p.132 (has 885-886 and reads as दायभाग does), स.वि.p.438-439 (has ll three), वि.र.p.526.

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विभक्तेनैव यत्प्राप्तं धनं तस्यैव तद्भवेत्।
हृतं नष्टं च यल्लब्धं प्रागुक्तं च पुनर्भजेत्।।८८७

बन्धुनापहृतं द्रव्यं बलान्नैव प्रदापयेत्।
बन्धूनामविभक्तानां भोगं नैव प्रदापयेत्।।८८८

७३ (बहोः कालादपि साधारणक्षेत्रविभागः) ८८९-८९२

क्षेत्रं साधारणं त्यक्त्वा योऽन्यदेशं समाश्रितः।
तद्भंश्यस्यागतस्यांशः प्रदातव्यो न संशयः।।८८९

तृतीयः पञ्चमो वापि सप्तमश्चापि यो भवेत्।
जन्मनामपरिज्ञाने लभेतांशं क्रमागतम्।।८९०

यं परंपरया मौला सामन्ताः स्वामिनं विदुः।
तदन्वयस्यागतस्य दातव्या गोत्रजैर्महो।।८९१

विभक्ताः पितृवित्ताच्चेदेकत्र प्रतिवासिनः।
विभजेयुः पुनर्ब्भंशं स लभेतोदयो यतः।।८९२

७४ (विभक्तचिह्नादि) ८९४

वसेयुर्दशवर्षाणि पृथग्धर्माः पृथक्क्रियाः।
भ्रातरस्तेऽपि विज्ञेया विभक्ताः पैतृकाद्धनात्।।८९३

७५ (स्त्रीधनलक्षणं स्त्रीधनप्रकाराश्च) ८९४-९०१

अध्यग्न्यध्यावाहनिकं दत्तं च प्रीतितः स्त्रियै।
भ्रातृमातृपितृप्राप्तं षड्विधं स्त्रीधनं स्मृतम्।।८९४

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888 दायभाग p.222, वि.चि.p.144 (latter half), वीर.p.707, वि.र.p.526.

889-891 वि.वि.p.132, व्य.म.p.101-102 (has 889, but assigns no name and reads गोत्रसाधारणं and ascribes 890 to बृहस्पति), स्मृतिच.III.p.712-713 ascribes all three to बृहस्पति.

892 दायभाग p.110.

893 अपरार्क p.757 (reads वसेयुर्ये दशब्दानि and विभक्ता भ्रातरस्ते च विज्ञेया पैतृके धने), स्मृतिच.III.p.719, स.वि.p.443.

894 दायभाग p.72 (ascribes to मनु and कात्यायन), वि.र.p.522 and वि.चि.p.138 (also do so).

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विवाहकाले यत्स्त्रीभ्यो दीयते ह्यग्निसंनिधौ।
तदध्यग्निकृतं सद्भिः स्त्रीधनं परिकीर्तितम्।।८९५

यत्पुनर्लभते नारी नीयमाना पितुर्गृहात्।
अध्यावहनिकं चैव स्त्रीधनं तदुदाहृतम्।।८९६

प्रीत्या दत्तं तु यत्किंचित् श्वश्वा वा श्वशुरेण वा।
पादवन्दनिकं चैव प्रीतिदत्तं तदुच्यते।।८९७

गृहोपस्करवाह्यानां दोह्याभरणकर्मिणाम्।
मूल्यं लब्धं तु यत्किंचिच्छुल्कं तत्परिकीर्तितम्।।८९८

विवाहात्परतो यत्तु लब्धं भर्तृकुलात्स्त्रिया।
अन्वाधेयं तदुक्तं तु लब्धं बन्धुकुलात्तथा।।८९९

ऊर्ध्वं लब्धं तु यत्किंचित् संस्कारात् प्रीतितः स्त्रिया।
भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः।।९००

ऊढया कन्यया वापि भर्तुः पितृगृहेऽपि वा।
भ्रातुः सकाशात्पित्रोर्वा लब्धं सौदायिकं स्मृतम्।।९०१

895-897 मिता on या.II.143, अपरार्क p.751 (reads पादवन्दनिकं तत्तु लावण्यार्जितमुच्यते) स्मृतिच.III.p.651, परा.मा.III.p.547, कुल्लूक on मनु 9.194 (has 895-896 and reads नीयमाना तु पैतृकात्), वि.र.p.524 and वि.चि.p.138 (reads यत्तल्लावण्यार्जितमुच्यते नीयमान हि पैतृकात्), मद.पा.p.671, दायभाग p.73, (has 895-896 and reads नीयमाना हि पैतृकात्).

898 दायभाग p.93, अपरार्क p.752, स्मृतिच.III.p.652, व्य.म.p.153, वीर.p.690,वि.र.p.525, मद.पा.p.671.

899 - 900 दायभाग p.71, (has both) वि.र.p.524 (has both and reads स्वकुलात्तथा), परा.मा.III.p.548 has 898 and reads लब्धं पितृकुलात्तथा, व्य.म.p.153 and वि.चि.p.139 have 899 only and read यल्लब्धं स्वकुलात्तथा, मिता on या II.and 144 स.वि.p.380 (have 899 and लब्धं पितृकुलात्तथा), वीर.p.690 has 899 and reads as व्य.म.does अपरार्क p.752 and स्मृतिच.III.p.652 read one verse as विवाहाः ... स्त्रिया । भर्तुः पित्रोः सकाशाद्वा अन्वाधेयं तु तद्भृगुः।।

901 मिता on या.II.143, वीर.p.690, व्य.म.p.155, परा.मा.III.p.549, अपरार्क p.751, दायभाग p.76 reads भर्तुः सकाशात्.

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७६ (स्त्रीधने स्वाम्यादिविचारः) ९०२-९१६

पितृमातृपतिभ्रातृज्ञातिभिः स्त्रीधनं स्त्रियै।
यथाशक्त्या द्विसाहस्राद्दातव्यं स्थावराद्दते।।९०२।।

यत्तु सोपाधिकं दत्तं यच्च योगवशेन वा।
पित्रा भ्रात्राथवा पत्या न तत्स्त्रीधनमिष्यते।।९०३

प्राप्तं शिल्पैस्तु यद्वित्तं प्रीत्या चैव यदन्यतः।
भर्तुः स्वाम्यं तदा तत्र शेषं तु स्त्रीधनं स्मृतम्।।९०४

सौदायिकं धनं प्राप्य स्त्रीणां स्वातन्त्र्यमिष्यते।
यस्मात्तदानृशंस्यार्थं तैर्दत्तमुपजीवनम्।।९०५

सौदायिके सदा स्त्रीणां स्वातन्त्र्यं परिकीर्तितम्।
विक्रये चैव दाने च यथेष्टं स्थावरेष्वपि।।९०६

भर्तृदायं मृते पत्यौ विन्यसेत्स्त्री यथेष्टतः।
विद्यमाने तु संरक्षेत् क्षपयेत्तत्कुलेऽन्यथा।।९०७

अथ चेत्स द्विभार्यः स्यान्न च तां भजते पुनः।
प्रीत्या निसृष्टमपि चेत्प्रतिदाप्यः स तद्बलात्।।९०८

ग्रासाच्छादनवासानामाच्छेदो यत्र योषितः।
तत्र स्वमाददीत स्त्री विभागं रिक्थिनां तथा।।९०९

लिखितस्येति धर्मोऽयं प्राप्ते भर्तृकुले वसेत्।
व्याधिता प्रेतकाले तु गच्छेद्बन्धुजनं ततः।।९१०

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902 स्मृतिच.III.p.652, परा.मा.III.p.548, व्य.म.p.154.

903 स्मृतिच.III.p.653, परा.मा.III.p.549, व्य.म.p.154, वीर.p.688.

904 स्मृतिच.III.p.654, परा.मा.III.p.550, व्य.म.p.154, वीर.p.689, दायभाग p.76.

905 अपरार्क p.752, स्मृतिच.III.p.654, परा.मा.III.p.549, वि.चि.p.139, (reads दत्तं तत्प्रजीवनम्), वीर.p.691, दायभाग p.76 (reads तैर्दत्तंतत्प्रजीवनम्).

906-907 स्मृतिच.III.p.654, (both), अपरार्क p.752 (has only 906), दायभाग p.76 and 73, वि.चि.p.139-140 (has both), वीर.p.691 and वि.चि.p.155 (have only 906), वि.र.p.510-511.

908-909 अपरार्क p.755 (reads आदधीत), दायभाग p.78 (reads विसृष्टमपि), स्मृतिच.III.p.658, वीर.p.692, वि.र.p.514.

910 अपरार्क p.755 (first half only), वि.चि.p.141, वि.र.p.514 (has whole verse).

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न भर्ता नैव च सुतो न पिता भ्रातरो न च।
आदाने वा विसर्गे वा स्त्रीधनं प्रभविष्णवः।।९११

यदि ह्येकतरोऽप्येषां स्त्रीधनं भक्षयेद्बलात्।
सवृद्धिकं प्रदाप्यः स्याद्दण्डं चैव समाप्नुयात्।।९१२

तदेव यद्यनुज्ञाप्य भक्षयेत्प्रीतिपूर्वकम्।
मूल्यमेव प्रदाप्यः स्याद्यद्यसौ धनवान्भवेत्।।९१३

व्याधितं व्यसनस्थं च धनिकैर्वोपपीडितम्।
ज्ञात्वा निसृष्टं यत्प्रीत्या दद्यादात्मेच्छया तु सः।।९१४

जीवन्त्याः पतिपुत्रास्तु देवराः पितृबान्धवाः।
अनीशाः स्त्रीधनस्योक्ता दण्ड्यास्त्वपहरन्ति ये।।९१५

भर्त्रा प्रतिश्रुतं देयमृणवत्स्त्रीधनं सुतैः।
तिष्ठेद्भर्तृकुले या तु न सा पितृकुले वसेत्।।९१६

७७ (मृतायाः स्त्रिया धनाधिकारिणः) ९१७-९२०

भगिन्यो बान्धवैः सार्धं विभजेरन्सभर्तृकाः।
स्त्रीधनस्येति धर्मोऽयं विभागस्तु प्रकल्पितः।।९१७

दुहितृणामभावे तु रिक्थं पुत्रेषु तद्भवेत्।
बन्धुदत्तं तु बन्धूनामभावे भर्तृगामि तत्।।९१८

पितृभ्यां चैव यद्दत्तं दुहितुः स्थावरं धनम्।
अप्रजायामतातायां भ्रातृगामि तु सर्वदा।।९१९

911-913 दायभाग.p.78 and अपरार्क p.754 (read मूलमव and यदासौ), स्मृतिच.III.p.656, व्य.मा.p.286 (has 911-912), व्य.म.p.155-156, वीर.p.692, स.वि.p.380 (has 912-913) वि.र.p.513.

914 अपरार्क p.755, स्मृतिच.III.p.658, वि.चि.p.141, वि.र.p.513.

915 अपरार्क .p.752.

916 स्मृतिच.III.p.659, (first half only), वि.चि.p.142, वि.र.p.514 कुले जातु न या पितृ).

917 अपरार्क .p.721, स्मृतिच.III.p.661 and 667 वि.चि.p.143, वीर.p.695 (first half), वि.र.p.518.

918 अपरार्क p.721 and 753, वि.चि.p.143, स्मृतिच.III.p.664, वीर.p.697 (has first half only and reads पुत्रस्य), वि.र.p.518, दायभाग.p.95 (latter half only).

919 दायभाग.p.92 (ascribes to वृद्धकात्यायन), वीर.p.704 (reads अतीतायामप्रजसि).

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आसुरादिषु यल्लब्धं स्त्रीधनं पैतृकं स्त्रिया।
अभावे तदपत्यानां मातापित्रोस्तदिष्यते।।९२०

७८ (अपुत्रधने पत्न्यादयो धनाधिकारिणः) ९२१-९३२

अपुत्रा शयनं भर्तुः पालयन्ती गुरौ स्थिता।
भुञ्जीतामरणात्क्षान्ता दायादा ऊर्ध्वमाप्नुयुः।।९२१

स्वर्याते स्वामिनि स्त्री तु ग्रासाच्छादनभागिनी।
अविभक्ते धनांशं तु प्राप्नोऽत्यामरणान्तिकम्।।९२२

भोक्तुमर्हति कलृप्तांशं गुरुशुश्रूषणे रता।
न कुर्याद्यदि शुश्रूषां चैलपिण्डे नियोजयेत्।।९२३

मृते भर्तरि भर्त्रंशं लभेत कुलपालिका।
यावज्जीवं न हि स्वाम्यं दानाधमनविक्रये।।९२४

व्रतोपवासनिरता ब्रह्मचर्ये व्यवस्थिता।
दमदानरता नित्यमपुत्रापि दिवं व्रजेत्।।९२५

पत्नी भर्तुर्धनहरी या स्यादव्यभिचारिणी।
तदभावे तु दुहिता यद्यनूढा भवेत्तदा।।९२६।।

अपुत्रस्याथ कुलजा पत्नी दुहितरोऽपि वा।
तदभावे पिता माता भ्राता पुत्राश्च कीर्तिताः।।९२७

विभक्ते संस्थिते द्रव्यं पुत्राभावे पिता हरेत्।
भ्राता वा जननी वाथ माता वा तत्पितुः क्रमात्।।

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920 स्मृतिच.III.p.665, परा.मा.III.p.554.

921 दायभाग p.171, स्मृतिच.III.p.677, स.वि.p.410, वि.चि.p.140, वीर.p.627.

922-923 स्मृतिच.III.p.678-679, स.वि.p.410-411 (reads अविभक्तधनांशं), व्य.म.p.139-140 (reads चैलं पिण्डं), वीर.p.654-655 (reads धनांशे तु).

924-925 व्य.म.138, वीर.p.626.

926 मिता.on.या.II.135, स्मृतिच.III.p.686 (reads यद्यनूढाप्रचिष्ठिता), मद.पा.p.672, परा.मा.III.p.524, व्य.म.p.141, स.वि.p.412, वीर.p.631.

927 मिता.on.या.II.135, (reads अपुत्रस्यार्यकुलजा), स्मृतिच.III.p.693, परा.मा.III.p.526, व्य.म.p.141 (अपुत्रस्यास्य).

928 मिता.on.या.II.135, अपरार्क.p.745, स्मृतिच.III.p.690, परा.मा.III.p.532, वि.चि.p.154, वीर.p.633.

929 मेधातिथि on मनु.8.28 (as स्मृन्यन्तर), वि.चि.p.141 and व्य.म.p.140 and वीर.p.655 (read अपकार) परा.मा.III.p.532.

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अपचारक्रियायुक्ता निर्लज्जा वार्थनाशिका।।९२८

व्यभिचाररता या च स्त्री धनं सा न चार्हति।।९२९

नारी खल्वननुज्ञाता पित्रा भर्त्रा सुतेन वा।
विफलं तद्भवेत्तस्या यत्करोत्यौर्ध्वदेहिकम्।।९३०

अदायिकं राजगामि योषिद्भृत्यौर्ध्वदेहिकम्।
अपास्य श्रोत्रियद्रव्यं श्रोत्रियेभ्यस्तदर्पयेत्।।९३१

संसृष्टानां तु संसृष्टाः पृथक्स्थानां पृथक्स्थिताः।
अभावेऽर्थहरा ज्ञेया निर्बीजान्योऽन्यभागिनः।।९३२

७९ (द्यूतसमाह्वयौ) ९३३-९४३

द्यूतं नैव तु सेवेत क्रोधलोभविवर्धकम्।
असाधुजननं क्रूरं नराणां द्रव्यनाशनम्।।९३३

ध्रुवं द्यूतात्कलिर्यस्माद्विषं सर्पमुखादिव।
तस्माद्राजा निवर्तेत विषये व्यसनं हि तत्।।९३४

वर्तेत चेत्प्रकाशं तु द्वारावस्थिततोरणम्।
असंमोहार्थमार्याणां कारयेत्तत्करप्रदम्।।९३५

सभिकः कारयेद् द्यूतं देयं दद्यात्स्वयं नृपे।
दशकं तु शते वृद्धिं गृह्णीयाच्च पराजयात्।।९३६

जेतुर्दद्यात्स्वकं द्रव्यं जिताद्ग्राह्यं त्रिपक्षकम्।
सद्यो वा सभिकेनैव कितवात्तु न संशयः।।९३७

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930 व्य.म.p.113.

931 परा.मा.III.p.535, व्य.म.p.139.

932 वि.चि.p.160, वि.र.p.605 (reads अभार्वेशहरा).

933-934 वि.चि.p.166, वि.र.p.611.

935 वि.र.p.611.

936 अपरार्क p.803 (reads दशकं तु शतं), स्मृतिच.III.p.769, (latter half only), वि.र.p.612, (reads तु शतं... पराजये).

937 अपरार्क p.803 (read जितंग्राह्यं त्रिपक्षिकम्), स्मृतिच.III.p.769, वि.र.p.612 (reads जितं...पक्षिकं and वा कितवेनैव सभिकात्तु), परा.मा.III.p.575 (reads as अपरार्क does).

938 वि.र.p.614.

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एकरूपा द्विरूपा वा द्यूते यस्याक्षदेविनः।
दृश्यते च जयस्तस्य यस्मिन् रक्षा व्यवस्थिता।।९३८

अथवा कितवो राज्ञे दत्त्वा भागं यथोदितम्।
प्रकाशं देवनं कुर्यादेवं दोषो न विद्यते।।९३९

प्रसह्य दापयेद्देयं तस्मिन्स्थाने न चान्यथा।
जितं वै सभिकस्तत्र सभिकप्रत्यया क्रिया।।९४०

अनभिज्ञो जितो मोच्योऽमोच्योऽभिज्ञो जितो रहः।
सर्वस्वे विजितेऽभिज्ञे न सर्वस्वं प्रदापयेत्।।९४१

विग्रहेऽथ जये लाभे करणे कूटदेविनाम्।
प्रमाणं सभिकस्तत्र शुचिश्च सभिको यदि।।९४२

म्लेच्छश्वपाकधूर्तानां कितवानां तपस्विनाम्।
तत्कृताचारभेतॄणां निश्चयो न तु राजनि।।९४३

८० (प्रकीर्णकम्) ९४४-९७३

पूर्वोक्तादुक्तशेषं स्यादधिकारच्युतं च यत्।
आहृत्य परतन्त्रार्थनिबद्धमसमञ्जसम्।।९४४

दृष्टान्तत्वेन शास्त्रान्ते पुनरुक्तक्रियास्थितम्।
अनेन विधिना यच्च वाक्यं तस्मात्प्रकीर्णकम्।।९४५

राजधर्मान्स्वधर्मांश्च संदिग्धानां च भाषणम्।
पूर्वोक्तादुक्तशेषं च सर्वं तत्स्यात्प्रकीर्णकम्।।९४६

सद्भागकरशुल्कं च गर्ते देयं तथैव च।
संग्रामचौरभेदी च (दश्च?) परदाराभिमर्दनम्।।९४७

गोब्राह्मणजिघांसा च शस्यव्याघातकृत्तथा।
एतान्दशापराधांस्तु नृपतिः स्वयमन्विषेत्।।९४८

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939 स्मृतिच.III.p.769, अपरार्क p.803 and वीर.p.718 ascribe it to नारद.

940-941 अपरार्क p.804, वि.र.p.615,616 (reads दापयेद्द्रव्यं प्रत्ययात् क्रिया, जितो मोच्योभिज्ञो वापि जितो)

942-943 अपरार्क.p.804, वि.र.p.617 (निश्चयेन).

944-952 वि.र.p.622-623.

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निष्कृतीनामकरणमाज्ञासेधव्यतिक्रमः।
वर्णाश्रमविलोपश्च वर्णसङ्करलोपनम्।।९४९

निधिर्निष्फलवित्तं च दरिद्रस्य धनागमः।
एतांश्चारैः सुविदितान् स्वयं राजा निवारयेत्।।९५०
अनाम्नातानि कार्याणि क्रियावादांश्च वादिनाम्।
प्रकृतीनां प्रकोपश्च सङ्कृतश्च परस्परम्।।९५१
अशास्त्रविहितं यच्च प्रजायां संप्रवर्तते।
उपायैः सामभेदाद्यैरेतानि शमयेन्नृपः।।९५२
मित्रादिषु प्रयुञ्जीत वाग्दण्डं धिक् तपस्विनि।
यथोक्तं तस्य तत्कुर्यादनुक्तं साधु कल्पितम्।।९५३
प्रमाणेन तु कूटेन मुद्रया वापि कूटया।
कार्यं तु साधयेद्यो वै स दाप्यो दममुत्तमम्।।९५४
राजक्रीडासु ये सक्ता राजवृत्त्युपजीविनः।
अप्रियस्य च यो वक्ता वधं तेषां प्रवर्तयेत्।।९५५
प्रतिरूपस्य कर्तारः प्रेक्षकाः प्रकराश्च ये।
राजार्थमोषकाश्चैव प्राप्नुयुर्विविधं वधम्।।९५६
प्रव्रज्यावसितं शूद्रं जपहोमपरं तथा।
वधेन शासयेत्पापं दण्ड्यो वा द्विगुणं दमम्।।९५७
सचिह्नमपि पापं तु पृच्छेत्पापस्य कारणम्।
तदा दण्डं प्रकल्पेत दोषमारोप्य यत्नतः।।९५८
सद्वृत्तानां तु सर्वेषामपराधो यदा भवेत्।
अवशेनैव दैवात्तु तत्र दण्डं न कल्पयेत्।।९५९

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953 वि.र.p.629.

954 अपरार्क p.362, स्मृतिच.III.p.757, स.वि.p.475, (reads मुद्रया वानुकूलया and दाप्योत्तमसाहसम्) वि.र.p.370.

955 स्मृतिच.III.p.773, परा.मा.III.p.580, (reads अप्रियं चास्य), वि.र.p.368, वि.चि.p.103 वीर.p.724.

956 वि.चि.p.103.

957 परा.मा.III.p.582, वीर.p.724.

958 वि.र.p.650.

959-960 वि.र.p.651.

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सम्यग्दण्डप्रणेतारो नृपाः पूज्याः सुरैरपि।
आरम्भे प्रथमं दद्यात्प्रवृत्तौ मध्यमः स्मृतः।।
यस्य यो विहितो दण्डः पर्याप्तस्य स वै भवेत्।।९६०
राजानो मन्त्रिणश्चैव विशेषादेवमाप्नुयुः।
अशासनात्तु पापानां नतानां दण्डधारणात्।।९६१
परतन्त्राश्च ये केचिद्दासत्वं ये च संस्थिताः।
अनाथास्ते तु निर्दिष्टास्तेषां दण्डस्तु ताडनम्।।९६२
ताडनं बन्धनं चैव तथैव च विडम्बनम्।
एष दण्डो हि दासस्य नार्थदण्डो विधीयते।।९६३
सुवर्णशतमेकं तु वधार्हो दण्डमर्हति।
अङ्गच्छेदे तदर्धं तु विवासे पञ्चविंशतिम्।।९६४
कुलीनार्यविशिष्टेषु निकृष्टेष्वनुसारतः।
सर्वस्वं वा निगृह्यैतान् पुराच्छीघ्रं प्रवासयेत्।।९६५
निर्धना बन्धने स्थाप्या वधं नैव प्रवर्तयेत्।
सर्वेषां पापयुक्तानां विशेषार्थश्च शास्त्रतः।।९६६
वधाङ्गच्छेदार्हविप्रो निःसङ्गे बन्धने विशेत्।
तदकर्मवियुक्तोऽसौ वृत्तस्तस्य दमो हि सः।।९६७
कूटसाक्ष्यपि निर्वास्यो विख्याप्योऽसत्प्रतिग्रही।
अङ्गच्छेदी वियोज्यः स्यात् स्वधर्मे बन्धनेन तु।।९६८
एतैः समापराधानां तत्राप्येवं प्रकल्पयेत्।
बालवृद्धातुरस्त्रीणां न दण्डस्ताडनं दमः।।९६९

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961 वि.र.p.650.
962 वि.र.p.655.
963 वि.र.p.655, परा.मा.III.p.212 attributes this to बृहस्पति and reads latter half as दण्डो हि रुद्रस्य नार्थदण्डो बृहस्पतिः।
964-68 वि.र.p.657.
969 वि.र.p.658.
970 वि.र.p.659.
971-973 वि.र.p.663.

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स्त्रीधनं दापयेद्दण्डं धार्मिकः पृथिवीपतिः।
निर्धना प्राप्तदोषा स्त्री ताडनं दण्डमर्हति।।९७०

अन्यायोपार्जितं न्यस्तं कोषे कोषं निवेशयेत्।
कार्यार्थे कार्यनाशः स्याद्बुद्धिमान्नोपपातयेत्।।९७१

दत्वा धनं तद्विप्रेभ्यः सर्वं दण्डसमुत्थितम्।
पुत्रे राज्यं समासज्य कुर्वीत ग़याणं वने।।९७२

एवं चरेत्सदा युक्तो राजा धर्मेषु पार्थिवः।
हितेषु चैव लोकस्य सर्वान् भृत्यान्नियोजयेत्।।९७३

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Some Abbreviations employed in the Translation and Notes

Apar	=	Apararka's com. on Yajnavalkya
Br.	=	Translation of Brhaspati by Dr. Jolly in the Sacred Books of the East Series, vol. 33
D. B.	=	Dayabhaga
Kat.	=	Katyayana
Kaut	=	Arthasastra of Kautilya (text, ed. in 1919 by Dr. Sham Sastri and translation by him in 1915)
Kul	=	Kulluka's commentary on Manusmrti.
Mit.	=	Mitaksara of Vijnanesvara.
Nar	=	Translation of Narada-smrti by Dr. Jolly in Sacred Book of the East Series, vol. 33
Par.M.	=	Parasaramadhaviya
Sar	=	Sarasvativilasa (text)
Sm. C	=	Smrticandrika (text, Mysore edition)
V.C	=	Vivada cintamani
Vi	=	Visnu-dharmasutra
Vir.	=	Viramitrodaya (text ed. by Jivananda)
Vis	=	Visvavarupa's commentary on Yajnavalkya.
V.M.	=	Vyavaharamayukha of Nilakantha (text, &c ed. by me)
V.R.	=	Vivadaratnakara (text)
Vy. Mat	=	Vyavaharamatrka of Jimutavahana
Yaj	=	Yajnavalkya - smrti

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Katyayana on Vyavahara

(The qualities of a king)

1-2. The king should be disciplined, endowed with (the study of) the sastras, possessed of a treasury and of valour, well-disposed towards brahmanas, generous by nature and devoted to truth and dharma. (He should be) free from haughtiness, harassment (of subjects). Wickedness, rashness and irascibility, (he should be) ready witted, full of humility (and yet) high-soaring (in aims), engaging (readily) in conversation and pleasing in appearance.

3. Glory very much resorts (to a king) whose senses are under his control, who can curb himself, who wields (the rod of) punishment for those who fall victims to temptations, who does (everything) after deliberation, who is extremely steady.

(Duties of kings)

4. By reason of their being endowed with an abundance of valour, learning and wealth and particularly on account of the supreme power (they wield), the minds of kings always go astray (even) on the slightest cause (or impulse).

5. Therefore brahmanas should always enlighten the mind (of the king) as to the duties of the king; he (the king) should not transgress the highly purifying and holy dicta of the smrtis.

6. The gods became denizens of heaven by the power of the sounds of the veda; even they, being gratified by the honour paid to brahmanas (by the king), become more delighted there (i.e. in heaven).

7. Therefore kings should ever assiduously honour the brahmanas; by this he again and again (gains) the position of being Indra and of being the lord of men.

8. The chief of the gods (viz.Indra) coming down from heaven stands (before people) in the form of the king; he (the king) should ever do that whereby he would attain to the position of him (i.e.of. Indra).

9. Kings who abide by the duties peculiar to themselves attain to the position of Indra; but those (kings) whose actions go astray (from the path of dharma) have to reside in the Avici hell (after death).

10. That king, who gives way to (sudden) wrath with-out proper thought, no doubt would reside in an horrible hell for half a kalpa.

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3. 'Atyantam' may also be connected with 'nisevate' and then means 'till his last days.'
8. Compare Manu VII.4-8.
9. 'Avici' is one of the 21 hells prescribed for sinners. Vide Yaj.III.222-225 and Vi.43.1-22.
10. Read 'narake' for 'narakam'. 'Kalpa' is an enormous period. It is a day of Brahma and is equal to a thousand divine yugas, each divine yuga being equal to 12000 human years. Vide Manu.I.68-72.

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11. He (the king) should appoint a minister who is a brahmana, is endowed with these qualities, who is (always) absorbed in (state) business, who is devoted to the king and who is the best of his family.

12. Where the ministers, the sabhyas (members of the assembly of justice) and physicians are given to speaking what is agreeable (to the king), the king would there be soon deprived of his kingdom, of dharma and of happiness (respectively).

13. He (the king) should not direct his wrath towards them (ministers, sabhyas, and physicians) when they tell him (the truth), since these must always tell the king what is proper and what is firmly fixed.

14. Where the king himself looks into all actions according to the dictates of dharma, there the people behave well and reside in happiness.

15. Constant protection of the subjects, eradication of evil-doers, honouring brahmanas - for these purpose the king was made.

16. The king is declared to be the lord of the land, but never of other kinds of wealth; therefore he should secure the sixth part of the fruits of land but not otherwise at all.

17. Since (human) beings reside on it (on land) their ownership thereof has been declared. The king's ownership is restricted to taking one-sixth as a tax, since the latter is dependent on good and evil portents (or natural phenomena and calamities of storms, rains, locusts etc).

18. That king, who, giving up greed, acts in this manner, is blessed with sons and his domain and treasury prosper.

19. The king, who unjustly takes from his kingdom taxes, fines, share of crops and tolls, incurs sin.

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11. 'Endowed with these qualities'. Probably this refers to the qualities of the king enumerated above.

12. If the minister were to give such advice as would be agreeable to the king and not what would be of real benefit to the state, the king would lose his kingdom. Similarly if the sabhyas were to decide according to the whims of the king, they would be perpertrating injustice (i.e.he would lose dharma). If physicians were to prescribe what was agreeable to the king, his health and happiness would suffer.

15. Compare Manu VII 88 and IX 253 and Yaj.I.323. The Kautiliya contains a special adhikarana (4th) on kantakas odhana.

16-17. The idea underlying these verses seems to be that the king is the owner of all land in the state; therefore he is entitled to demand a sixth part of the produce of the land. The actual cultivators of the soil have only a qualified ownership over land, which they are said to own because they reside on it and produce crops. The latter half of 17 is difficult to construe. The translation above is only tentative. According to the V.M. the king was not the owner of the soil (p.91 text). Katyayan's view seems to be the same as that embodied in section 37 of the Bombay Land Revenue Code.

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20. He (the king) should discard the teachings of politics and resort to the dictates of dharmasastra (sacred law).

21. Even when the king is at fault, (the conqueror) should not rain the country (for the vanquished king's faults), since he (the vanquished king) does not start on (his career of) wrong-doing with the consent of his subjects.

22. Whatever (gift) a king offers in a proper manner to supplicant without distress (to himself), that gift saves him; such a gift made for the purpose of (accumulating) merit becomes enduring (in its results).

23. Whatever is gained by kings after justly attacking and conquering their enemy, is untainted and fit to be bestowed (in gift) and not anything else which is acquired in a different way.

24. The king should appoint as his purohita (a family priest) a brahmana who is (highly) spoken of (by the learned). Who is well-disposed, endowed with perfect (Vedic) learning, who is not greedy and who speaks the truth.

(Definition of Vyavahara)

25. When the ramifications of right conduct, that together are called dharma and that can be established only with effort, have been violated, the dispute (in a law court between plaintiff and defendant) which springs from what is desired to be proved (such as a debt), is said to be vyavahara.

26. 'Vi' is employed in the sense of 'various', 'ava' in the sense of 'doubt', 'hara' means 'removing'; 'vyavahara' is so called because of its removing various doubts.

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20. This embodies the rule of conduct in the case of conflict between the teachings of arthasastra and dharmasastra. Vide Yaj.II.21., Nar.I.39,p15 and Ap.Dh.S.T.9.24.23. for a similar idea. Kautilya also says; शास्त्रं विप्रतिपद्येत धर्मन्यायेन केनचित्। न्यायस्तत्र प्रमाणं स्यात्तत्र पाठो हि नश्यति।। p.150 (text).

24. Compare the qualifications of a purohita in Kautilya (p.15) and Yaj.I.313, in both of which the word 'uditoditam' occurs and is variously explained. Mit. says 'endowed with qualities spoken of in the sastras' while Apararka explains 'in whom are born the qualities that are spoken of as required in ministers.'

25. This verse gives the conventional (rudha) sense of 'vyavahara' and the next verse gives its etymology. Some of the words are variously explained. Apar. explains 'dharmakhya' as 'which sets forth dharma' and he refers efforts (prayatna) to the labour involved in proving one's claim by means of documents, witnesses &c. The Par.M.explains 'nyaya' as meaning 'wordly conduct approved of by respectable people' and 'vistara' as 'decision based upon reasoning' 'prayatna' as 'effort to do what is prescribed and to avoid what is forbidden, 'sadhya' as 'wealth of which a person is robbed and which he wants to recover; the Vir. takes 'nyaya' to mean 'pramana (i.e.sruti and smrti), takes 'nyayavistare' as qualifying 'dharmakhye', the meaning being 'when dharma which is unfolded (i.e.under stood through) by sruti and smrti is obscured'. The Vir. (p.6) offer another explanation, when the pramanas sruti and smrti and others which expound dharma are shattered (by delusion or careclessness &c). Harita defines vyavahara similarly 'that is declared vyavahara. When the attainment of one's dharma and the avoidance of the dharma of another is brought about by nyaya (vide. Sm.c.III.p.2, Par.M.III.p.7, Vir.p.6).

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27. The king should not, through being won over or through greed of money, take upon himself the disputes of men when they do not themselves contend (in a court).

28. He, who causes (physical) injury or does not give back through wickedness what he owes to (his creditor) even though the latter beseeches (him), should be dragged by order of the king.

29. (Vyavahara) has two aspects, which come to be eighteen owing to the manifoldness in the objects to be secured (by litigation); the eighteen again become 1008 owing to the multifariousness of the matters to be proved.

30. What the plaintiff complains of (before the court) is the root of the litigation; the two springs (of vyavahara) are said to be non-rendition of what is due and injury.

31. This (vyavahara) is said to have four feet i.e. stages viz. the plaint, the defence (of reply), the deliberation (as to burden of proof) and the adducing of proof.

32. Dharmasastra (sacred law) and Arthasastra (science of politics and government) are declared to be the two main branches (of vyavahara) and victory and defeat are declared to be the two fruits.

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27. Compare Manu, VIII.43 for a similar precept. Sm C. (III.p.61) ascribes this verse to Narada. Pitamaha says that the king was to act suomotu without a private man's complaint in the case of 50 chalas, 10 aparadhas and 22 padas. The chalas included mischief on the royal road, abuse of the king; the aparadhas included disobedience of royal edicts, mixture of castes, abortion &c; the padas included incendiarism mischief to embankments &c. Vide Sm.C.III.pp.62-65.

29. The two aspects of vyavahara are civil (dhanamula) and criminal (himsamula); the former contain 14 titles of law and the latter 4. These eighteen titles can be subdivided into 132, according to Nar. (p.12). Vide also Br.p.283 verse 5 for division into civil and criminal disputes.

30. Compare बृहस्पतिः हिंसां वा कुरुते कश्चिद्देयं वा न प्रयच्छति। द्वे हि स्थाने विवादस्य तयोर्बृहतरा गतिः॥ (स्मृतिच.III.p.2); Vide Br.p.283, v.4.

31. According to Br. the four padas are plaint, reply kriya (adducing of proof), and decision (vide Apar.p.616), while the Vir.quotes (p.59) another verse of Brhaspati's where the four padas are bhasa (plaint), uttara, kriya and pratyakalita (Br.p.289 verse 1). The meaning of pratyakalita according to the vir. and Apar. is deliberation of the judge and assessors as to where the onus probandi lies and as to the method of proof. According to the Mit. (on.Yaj.II.8 pratyakalita in this sense is not a vyavaharapada since it is a function of the judge only and has no direct relation to the litigants, but pratyakalita in the sense of 'decision of the suit' may be a vyavaharapada. According to Nar.(p.7.V.10) the four feet of vyavahara are: dharma, vyavahara caritra, royal edict.

32. Verses 30 and 32 seem to refer to the dictum of Harita about vyavahara एकमूलो द्विरुत्थानो द्विस्कन्धो द्विफलस्तथा (स्मृतिच. III.p.27).

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33. That man is declared to be stobhaka who with a sole eye to money and without being urged by the king first informs (the king) of a matter which is censured by sastra (sacred law).

34. That man is declared to be sucaka who is appointed by the king himself for discovering the wrong-doing of others and who coming to know of it conveys it to the king.

(Comparative strength of dharma, vyavahara, caritra and rajasasana)

35. In a dispute where the person guilty of wrong-doing accepts (confesses to) his responsibility for it and where the real owner of the money (in dispute) secures his wealth by the admission of the defendant the decision is by dharma (moral law) itself.

36. That is said to be vyavahara (decision by judicial proof) where, for the purpose of deciding the causes (of litigants), those who are to execute the sacred law (i.e.the judge and assessors) put forward some principles of dharmasastra (viz. examination of plaint, reply, witnesses & c.).

37. Whatever a person practises, whether it be according to dharma (the letter of the sacred law) or not, because it is the invariable usage in a country, is declared to be caritra (usage).

33-34. A stobhaka is a private informant who gives information to the king for a reward, while a sucaka is a servant of the king or an officer of the criminal intelligence department. These two verses have reference to chalas, aparadhas and padas as to which the king was to proceed suo motu. Read राज्ञाप्रचोदितः.

35. Narada (vide 31 above) spoke of vyavahara as four-fold. But what he meant is made clear by Brhaspati. धर्मेण व्यवहारेण चरित्रेण नृपाज्ञया। चतुष्प्रकारोऽभिहितः सन्दिग्धेऽर्थे विनिर्णयः।। स्मृतिच. III.p.21 Vide Br.p.285 v.18. 'Decision' is the fourth pada of vyavahara accoording to Br.and this last can be arrived at in four ways viz.by dharma, by vyavahara, by caritra and by rajasasana. When a person guility of a prime (dosa) admits his guilt (through repentance and on account of being afraid of sins) without fighting out the proceeding and when a defendant also admits in his reply his liability to pay, there the decision is said to be by dharma, as the admission is due to the desire to follow dharma and to the fear of dharma. Here there is no necessity of proof, or usage, or royal edict. It is therefore that Nar says तत्र सत्ये स्थितो धर्मो व्यवहारस्तु साक्षिषु। चरित्रं पुस्तकरणे राजाज्ञायां तु शासनम्।। This very verse occurs in kautilya (p.150 text) where we read चरित्रं संग्रहे पुंसाम्.

36. It is therefore that Nar. says that decision by vyavahara rests on witnesses, as they are principal instrument of proof. Compare Br.p.286.v.22.

37.Certain usages observed by the people of a country may not be in accordance with the rules contained in certain dharmasastras (such as marriage with a maternal uncle's daughter); yet if the question of the validity of such a marriage comes before the court, it is to be decided according to usage and not according to dharmasastra. Here a decision based on usage (caritra) is itself called caritra. Vide.Manu.I.108 on acara (usages) being transcendental

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38. What a king establishes as dharma which is not in conflict with the smrti rules on justice and with the usages of the country is a righteous royal edict.

39. Where a cause is tried by (an appeal to) reasoning and ordeals are eschewed, there (decision by) dharma is overruled by vyavahara and not in other cases.

40. (The king) should not disregard the fixed rules of conduct among those who belong to the pratiloma castes and among inhabitants of forts (or inaccessible mountain place), even if they are opposed (to rules of smrti).

41. When a king gives a decision in accordance with such rules of conduct (i.e. according to usage) then vyavahara is overruled by caritra.

42. Where kings consider that an usage is opposed to sacred law, there the usage is overruled by the king's command.

43. Each succeeding one (out of four viz, dharma, vyavahara, caritra and royal edict) when possessed of these characteristics overrules (each succeeding one); where (each succeeding one) overrules (preceding one) in other circumstances, there justice (dharma) is destroyed.

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law and Yaj.I.343 on the king's duty to respect the usages of a conquered country. Narad's text as read by Candesvara चरित्रं पुस्तकरणे means 'documentary evidence', but Par.M.(III.p.10) reads चरित्रं तु स्वीकरणे. which means the same thing as above. Vide.Vir.p.9 for criticism of these two readings व्यास also says देशस्थितिः पूर्वकृता चरित्रं समुदाहृतम् (स्मृतिच.III.p.23), and पितामह also says यद्यदाचरति श्रेष्ठो धर्म्य वाधर्म्यमेव वा। कुलादिदेशाचरणाच्चरित्रं तत्प्रकीर्तितम्।। (स्मृतिच.III.p.58).

38. A decision in a cause arrived at by the king's own intellect and not in conflict with smriti or usages is said to be a decision by royal edict.

39. These and the following verses illustrate the dictum of Narada about the four that each succeeding one is stronger (or superior to) than each preceding one (उत्तरः पूर्वबाधकः). Vide.Nar.p.7v.10. Kauti (p.150 text) has the same verse. Where the decision is not given on the admission of the defendant or on trail by ordeal, but according to the methods of proof (such as witnesses, inference) laid down in dharma sastra, the decision is by means of vyavahara. बृहस्पति says शास्त्रं केवलश्रित्य क्रियते यत्र निर्णयः। व्यवहारः स विज्ञेयो धर्मस्तेनावहीयते (स्मृतिच.III.p.24, वीर.p.12). Vide Br.p.286 v. 25.

40-41. When a girl of a higher caste marries a male of a lower caste. the progeny is called pratiloma. Vide Manu X.11-41 and Yaj.I.93-95. For the idea in these verses, compare बृहस्पति देशस्थित्यानुमानेन नैगमानुमतेन वा। क्रियते निणर्यस्तत्र व्यवहारस्तु बाध्यते।। (स्मृतिच.III.25, वीर.7. p. 12 and Br.p.287 v. 26).

42. Where usages are opposed to smrti and it is likely that enforcing them would engender discontent and commotion among the people, the king's command may supersede such usages. It is therefore that in verse 136 below a plaint which is opposed to the interest of the nation is said to fail.

43. Narada's dictum (उत्तरः पूर्वबाधक) quoted on verse 39 is not a universal rule. It is rather an exception. This is made clear by this verse that where judicial procedure can properly be carried out, or where there are local usages (not opposed to the nation is said to fail.

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44. If a king decides (a case) by his own fiat where there is a text (of the sastra capable of deciding it), it leads him away from heaven, it causes ruin to people it brings danger (to the king) from the army of his enemy and it strikes down the roots (lit. the seed) of his (long) life.

45. Therefore a king should decide the causes (of people) according to the rules of sastra; but in the absence of sacred texts, he should carry out (judicial administration) according to the usages of the country (lit. the views of the country).
46. Whatever course of conduct is in vogue in a country, is of long duration and is not opposed to the vedas and smrtis, is said to be usages of the country.

47. (In disputes) between the residents of the same country or the same capital or the same hamlet of cowherds and of the same town or village, (the decision should be) by their own conventional usages, but (in disputes) between these and others (the decision must be) in accordance with the sacred texts (dharmasastra).

48-50. Whatever conventions are settled in accordance with the consent of the (people of a) country should always be preserved in writing sealed with the royal seal. Such conventions should be sedulously upheld like (the dictates of) sacred law and (the king) should decide (disputes) after considering them. Whatever (trade) conventions are reduced to writing by traders as fit to be carried out, those must be given effect to and (the king) should not start anything contrary to them.

51. Whatever is decided upon (once by the king) as the authoritative usage of a country and whatever he does as approved of by the vedas and smrtis though not in vogue (as a custom or convention) that should not be again reversed (by the king); he should avoid what is not in accordance with smrti rules.

(The hall of justice)

52. That place, where the decision of the truth of the plaint (lit. the cause or root of dispute) is carried on by a consideration of the (rules of the) sacred law, is (called) the Hall of Justice (dharmadhikarana).

53-54. The king, having risen in the morning, performed ablutions, being composed in mind, having shown due honour to his guru, his astrologer, physicians,

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45. Compare Manu.8.3.

47. This lays down the rule of decision in case of the conflict of various systems of law, where the parties to the litigation do not belong to the same country, town or village.

48-50. These principles applicable to the usages of a country and the custom of a trade also hold good in the case of the usages of a caste or family, a guild or corporation &c. Vide pitamaha ग्रामगाष्ठ पुरश्रेणीसार्थ सेनानिवासिनाम्। व्यवहारश्चरित्रेण निर्णेतव्य बृहस्पतिः ।। (स्मृतिच.III.p.58.) Vide Br.p.287 v. 28 and Manu 8.41. Verse 85 below should have been placed after these.

53-54. Vide Br.p.280 verses 21-22 for the same verses.

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deities, brahmanas, and the family priests and having saluted the elders and the rest and being decked with fine flowers, ornaments and apparel, should enter the court room that has a pleasing appearance.

55. The king, dressed in a simple (subdued, not gaudy) manner, having gone to the court-room and being composed in mind, should look into the causes of litigants while sitting or standing facing the east, along with persons learned in the three vedas, elders and councillors well versed in state craft.

56. The king who looks (into causes) according to the sacred law along with the judge, the ministers, the brahmanas, the family priest and the assessors (sabhyas) attains heaven.

57-59. (The court-room) should be presided over by incorruptible and diligent assessors (sabhyas), by wise brahmanas who are (perform the work) hereditary, who are well-versed in the meaning of sacred texts and the science of politics, by a few merchants who form a group (or guild), who are men of high family, character, well advanced in years, are endowed with good conduct and wealth and are free from malice. In that (court-room) merchants are to be appointed to listen (to the cause) and to look to the adminstration of justice.

(Time of holding the court)

60. The king, who strikes down his enemies, should decide the causes in the court-room in the first half of the day according to the course laid down in the sacred texts (sastra).

61. Those three parts of the day after omitting the (first) eighth part of the day are declared to be the best time for (looking into) disputes according to the sacred texts.

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55. Compare Manu.8.1-2. Kul.explains that the king may decide while standing if the matter is simple or slight. The Vy.Mat. explains that the king's attire should be simple, as otherwise the parties might be dazzled by his splendour and might forget what they had to say. Compare.Br.p280 v.20.

57-59. The Mit. notices that there is a distinction between sabhyas and brahmanas; the former are specially appointed by the king, the latter are not. The Mit.says that, according to Manu.8-10-11, the sabhyas were to be three, while according to Br. they were to be 7, 5 or 3. Vide.Br.p.278 v.II. Vide Yaj.II.2 for qualifications of sabhyas. The vir.explains कुलभूतैः as old, the merchants are to be other than the sabhyas and were to be associated with the judge and sabhyas according to Mit. for placating the populace.

61. The whole day (of 20 ghatikas or 12 hours) is to be divided into 8 parts, then the first part (or 11/2) hours) is to be set apart (for daily duties of bath, worship &c), and the three parts (41/2 hours up to noon were to be devoted to hearing the causes, kaut. (text p.37 and tr.p.42) divides the king's day into eight parts, but assigns only the 2nd part and not 3rd and 4th also as in Kat) for looking into the causes of citizens and of people in the country.

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62. The three parts of the day after the first eighth part are recognised in the sastra by the wise as the time for (administration of) justice.

(The judge)

63-64. When the king cannot himself decide the causes (of litigants), then he should appoint thereto (in the court) a brahmana learned in the various sastras, who is vigilant and well-born, who is impartial, who does not cause disgust to the people, who is steady (or incorruptible) who is afraid of the next world, most devoted to observance of sastric rules of conduct, assiduous and free irascibility.

65. The king should appoint for (deciding) disputes (a judge) who is not cruel, who is sweet-tempered, kind, who is hereditary, clever, energetic and not greedy.

66. One who has studied only a single branch of learning would not know how to decide causes; therefore kings should appoint for (deciding) disputes one who knows many sastras as the best person.

67. Where a brahmana (endowed with the qualities enumerated) cannot be had, (the king) should appoint a Ksatriya or a Vaisya proficient in the sacred law, but he (the king) should carefully avoid a sudra (as a judge).

68. Whatever is done by others (as judges) than these must be regarded as done wrongly, even if they be officers (of the king) and even if by chance it is done (the decision is) according to the sacred texts.

69. It is settled that one who asks questions with reference to the matter in dispute is a 'prad' (a questioner); he, who distinguishes in that (dispute as to what party is in the right), is thence called 'pradvivaka' (a judge).

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62. This means the same thing as the precedings. It is unlikely that the original Katyayana contained both verses. Both are well authenticated: so they probably represent two versions of the same verse.

63. Compare Manu.8.9 and Yaj.II.3.

65. Read क्रमायातः for क्षमायातः in the text.

67. Compare Manu.8.20.

68. The juirisdiction to decide cases rests with judges and sabhyas who belong to the brahmana and the two other castes. If one who is not appointed a judge, but is an officer of the army were to decide a dispute even according to sastra that would be a decision without jurisdiction and so a nullity, just as in modern times if a court having no jurisdiction at all over the matter in dispute were to decide it, the decision could be a mere nullity, even if on merits the decision may be found to be right.

69. This gives the etymology of the word प्राड्विवाक. The judge asks the plaintiff what his case is and the defendant what his reply is and then finds out which of them is in the right. Therefore प्राडविवाक is a compound of two words प्राड् (from प्रच्छ् to ask) and विवाक (from विच् with वि). It seems better to derive विवाक from वच् with वि as the vy. Mat. does in the alternative विचार्य वा जयपराजयरूपां विविधमर्थं वक्तीति विवाकः compare Br.p.278 v. 12 for derivation.

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70. If the judge were to hold conversation in private with a party while the matter (in dispute) is undecided, he becomes liable to be punished and also particularly the assessors (if they do the same).

(The Members of the court)

71. The best of brahmanas, who are not avaricious, who possess wealth, who know the sacred law, who (always) speak the truth and are proficient in all sastras, should be made sabhyas (assessors).

72. Where the sabhyas decide (a matter) in violation of the sacred law there dharma (justice) being overcome by adharma (injustice) does undoubtedly destroy (the king).

73. Where justice is slain by injustice and where truth is strangled by untruth while the sabhyas look on (with apathy), there the sabhyas (members of the court) are themselves destroyed.

74. The members of the court should not connive at the king when he begins to act unjustly; if they do so, they along with the king fall head long into hell.

75. Those members of the court, who follow (approve of) the king who proceeds in an unjust manner, also become participators therein (i.e. in the sin due to unjust decision); therefore the king should be awakened by them (to the right course).

76. Coming to know that the mind of the king is straying from the path of justice, a member of the court should then say what is agreeable (to the king); (by so doing) the sabhya would not incur sin.

77. A member of the court must certainly speak out words (decision) that are in accordance with the sacred law and the science of state craft. If the king does not listen (to the advice of the sabhya), the sabhya would then be free from sin.

78. When a king directs (the judge or member of the court) to do injustice

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71. Compare Br.p.279 v.13, Nar.p.37 verses 4-5.

73. This is the same as Manu 8.14 and Narada (सभालक्षणाध्याय 8). So it is likely that Katyayana embodied such a popular verse in his work.

75-76. There is no contradiction in these verses. The latter says that the sabhya should not then and there oppose the king's desire, but should at the moment mollify the king, while the former says that gradually the king should be brought round to see the right path. The reading (in 75) बोधनीयः शनैर्नृपः (the king should be gradually awakened to his duty) is therefore preferable.

77. Compare Nar.p.37 verse 7 and p.39v. 15 and Manu.8.19.

79-80. Compare Nar.p.22v. 67 and Yaj.II.4. The Mit.on Yaj.II.4 explains in this way. The words liable to a double fine' do not mean double of the matter in dispute, since in certain cases (such as rape, abduction &c) the matter in dispute is incapable of valuation.

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to (to give a wrong decision in the case of) disputants, then a member of the court should beseech the king (that his order will lead to injustice) and should turn him away from wrong-doing.

79. When a sabhya decides wrongly through affection, ignorance, greed or infatuation, he should be punished; for he is in that case declared to be not a sabhya (i.e.unworthy to be a member of the court).

80. After correctly understanding how to decide the causes, a member of the court should announce (his decision); he should not announce (his decision) otherwise (i.e. without understanding); if he does so he is liable to a fine double (of what the defeated party in a cause has to pay).

81. Whatever loss is caused (to a litigant) through the fault of the sabhya, the latter should be ordered to make it good; but (the king) should not disturb the decision of the matter in dispute between litigants.

(Gradation among those who decide causes)

82. Family council, corporations, assemblies, one appointed (as a judge) and the king; these have the responsibility in (deciding) disputes. Each succeeding one out of these is superior to (each preceding one).

83. The king should investigate the causes of ascetics by those learned in the three vedas only and also of those who are adepts in jugglery and in yogic practices and should not investigate them himself for fear that he may rouse their anger (against himself).

84. (The king) should give advice (admonition) to those who are of high caste and character, and to his guru, teachers and ascetics through one who is endowed with true knowledge (and not himself directly).

85. That is called family usage which has come down hereditarily in a family as the dharma to be observed (by members of that family); (the king) should preserve it (intact).

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81. This applies where after a decision is pronounced, it is found that a wrong decision was given by a corrupt assessor. In such a case the decision stands, but the erring assessor has to make good the loss occasioned by his decision.

82. Vy.Mat.ascribes this verse to manu also. It is not found in Manu. It is Nar.I.7 (vide p.6). Yaj.II.30 is a similar verse, where the word 'puga' is used in place of 'gana'. 'Kula' or family gatherings are explained by the Mit. as groups of agnatic and cognatic relatives, while Vy.Mat.explains as 'the family of the parties.' Mit explains 'sreni' as associations of persons following one trade whether they belong to the same caste or not (such as weavers, betel-nut sellers &c), while Vy.Mat.explains as 'associations of artisans and traders etc; 'gana' means 'assembly of brahmanas etc, according to Vy.Mat. and 'puga' means according to Mit. 'assemblies of persons residing in one village or city, though of different castes and professions. All these are like modern pancayats. Compare Br.p.281 verses 28-30.

83. Compare Br.p.281 v.27 for a similar rule. This verse occurs in Kaut.text p.39.

84. Separate as संपन्नेन उपदेशं.

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(Method of questioning the palintiff)

86-88. (The king or judge) should question the litigant (who approaches) at the proper time (of the court), who bows (to the king or judge) and who stands before him 'what is your grievance, what is the injury done to you, don't be afraid, speak out, man!. The (judge) presiding in the court should ask 'by whom where at what time and why (was the grievance or injury caused). When thus asked whatever he replies should be considered (by the judge) with the assessors and the brahmanas and if the cause be judicially entertainable then he (the judge) should deliver the (court) seal to the plaintiff for calling (the defendant) or he should order the (court's) officer (to call the defendant).

(Substitutes or recognised agents of parties)

89-90. A person though other (than the defendant,) if put forward by the defendant before the judge (as defendant) should be regarded as the defendant and he also who is accepted (by the plaintiff) himself (as the defendant). It is the right of the person charged (to give a reply) and not of another person, since the latter is unconnected (with the dispute); (but) even a stranger may be allowed (to have the right to defend) if he is put forward (as the defendant) by the person charged (by the plaintiff).

91. For whomsoever a man carries on a dispute (in a law court) whether the latter be appointed by the plaintiff or deputed by the defendant, the victory or defeat belongs to the former (and not to the representative).

92. Slaves, menials, pupils, persons deputed, and relatives, these should not be punished when they speak (on behalf of another, their master etc); any one other than these (if meddling in litigation) deserves punishment.

86-88. The words 'किं कार्यं' and 'का पीडा' respectively refer to civil and criminal matters. Vir.p.52 explains that if the plaintiff were to reply that defendant does not return a debt given to him by the plaintiff in a former life, it is not a cause that can be entertained. 'The seal means probably a sealed order or summons. The court's officer (or bailiff) was called 'sadhyapala' Vide व्यास quoted in स्मृतिचः (III.39) सा व्यपालस्तु कर्तव्यो राज्ञा साध्यस्य साधकः। क्रमायातो दृढः शूद्रः सभ्यानां च मते स्थितः।। and Br.p.279v.15, which says that he was to be appointed to summon parties and witnesses and to keep them in custody (when necessary). For the last verse, compare 'ब्रहस्पति यस्याभियोगं कुरुते तथ्येनाशङ्कयापि वा । तमेवाकारये द्राजा मुद्रया पुरूषेण वा ।। स.वि.p.79 and स्मृतिच III.p.72.

89-90. See Order III of the Civil procedure Code on recognised agents, some of the provisions of which are very similar to the following verses. The general rule is contained in the first half of verse 90, viz. defendant must answer the plaintiff in person; to this three exceptions are allowed; defendant may send someone as his deputy (2nd half of 90) defendant charged by the plaintiff may put forward another person as the defendant, or the plaintiff may accept as the defendant another person. These verses and verse 92 forbid what is called in England champerty and maintenance.

91. This is the same as Nar.p.29 verse 22. The appointment may be due to illness, or incapacity to argue one's case. This verse contains the germs of the modern profession of pleaders.

92. Compare Nar.p.29 verse 23.

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93-95. A representative (of plaintiff or defendant) is not allowed in (charges of) brahmana murder, drinking wine, theft, sexual intercourse with the wife of an elder (incest) and in other grave sins. A representative should not be given in man slaughter, theft, indecent assault on another's wife, eating forbidden food, kiddnapping of a maiden and intercourse with her, harshness (vakparusya and dandaparusya), counterfeiting coins and measures, and also in sedition; but the man himself (the plaintiff or defendant) should engage in the dispute.

(Summons)

96. The king should not summon to appear in person those who are intent upon (engrossed in) performing religious rities for securing (heavenly) reward, persons who are ill, idiots, who are not at ease (owing to calamities), who are under the influence of intoxicants, who are raving, who are despondent and women.

97. (The king should not summon) a young woman whose family is dilapidated, a lady of good family, a woman who is recently delivered, a maiden who is of a higher caste than the claimant, (since) these are declared to be under the tutelage of their kinsmen.

98. Summoning (in person) is allowed in the case of those women on whom the family depends, women who are unchaste, courtezans, women without family and degraded women.

99. A person who asserts his claim, with arms in hand, without wearing an upper garment with hair dishevelled, sitting down on a seat or with his left hand, should be fined.

100. He, who when summoned disregards the king's order (to appear before the court) though able to do so, should be fined by the king according to the method laid down in the (smrti) injunction.

101. The fine should be fifty (panas) in the case of slight causes (when the defendant does not appear though summoned), two hundred as the minimum in the case of middling ones and in the case of heavy causes the fine should always be 500 (panas) at least.

93-95. The reading of Vy.Mat.would mean 'in mutual disputes between sanghas (religious or other associations)' The Sm.C.reads 'in other disputes of a coarse kind' and says that verses 94-95 illustrate what are such disputes. Vide Vi.34.1.for atipatakas.

95. For the meaning of अभ्युदय compare वैशेषिकसूत्र यतोभ्युदयानिः श्रेयससिद्धिः स धर्मः.

96. Sm.C.says that women who are dependant are meant here. Compare with this and the next Nar. pp.18-19 verses 52-54 and Br.p.288 v.34. The principle underlying verses 96 and 97 in regard to summoning women has been followed in sec.132. of the Civil Procedure Code (Act.V of 1908).

9 9. A claimant must approach the court in a decent manner. This verse is an expansion of the word in verse 86 above.

101.Apar, explain that these are copper panas.

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102. Whatever figure is put down as the fine for any wrong must be understood as referring to panas (to be paid to the king) or their equivalent price.

(Restraint or arrest)

103.He, who through bad disposition, causes injury or does not give what he is bound to give to one who requests him to do so should be desiged (before the court) by the king's order.

104-105. After informing the king of the cause (matter in dispute) and when the matter affirmed (in the plaint) is beyond doubt, he (the claimant) should employ restraint (of the defendant) till the arrival of the summons. One who deserves to be arrested should be punished, if he breaks (the restraint) when he is arrested.

106. That man who restrains (the defendant) so as to prevent him from exercising his limbs or from talking and breathing freely, when the defendant does not deserve to be (so restrained) should be punished and not the (defendant) who breaks such restraint.

107-108. Those who have climbed up trees and mountains, those who are seated on elephants, horses, chariots and in boats and these who are under difficulties - all these should not be arrested by those (plaintiffs) who want to establish their claims; so also those who are afflicted with disease, those who are over whelmed by calamities, those who are engaged in sacrifices, those who have not come out (of the litigation in which they are already engaged), the intoxicated, the lunatic and the idiot these should not be arrested.

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102. The reading 'saktitah' is better and means 'according to the ability of the person fined.

103. 'Injury' refers to criminal matters and 'deyam' stands for all civil disputes.

104. Vir. explains that when it is apprehended that some time would elapse before the summons from the king could be served on the defendant, the plaintiff should keep under restraint or arrest (called asedha in sanskrit) the defendant. Compare Nar.p.17 v 47. Asedha (which means arrest or restraint by king's order according to Mit) according to Nar.(p.17.v.48), was of four kinds; when the defendant is told 'don't go away even a step from this place till the decision' it is local restraint स्थानासेध when he is told 'you must present your self on the 5th of the month (Sm.c) or 'you must not do a certain thing for a certain time' (Vir.) it was temporary restraint कालोसध when told 'don't go on a jounery till the decision' it is restraint of journey (प्रवासात् आसेध), when told 'don't do such and such an act e.g.exposing an article for sale' (Sm.C) or 'don't do this or that act such as taking a bath' &c. (Vir.), it is restraint as to actions (कर्मणः आसेधः). If he disregarded these restraint he was liable to be punished. It will be noticed that 'asedha' included several modern processes such as attachment or arrest before judgement (section 94 and Order 38 of the Civil Pro.Code) or temporary injunction (Order 39 of the Civil Procedure Code).

107-108. Compare Nar. pp.18-19 verses 52-54, Br.p.288 verses 36-37.

108. 'Those who have not come out &c. Compare Yaj.II.9. अभियोगमनिर्स्तार्थ नैनं प्रत्यभियोजयेत् अभियुक्तं च नान्येन नोक्तं विप्रकृति नयेत्।। and Nar.p.19v.55 and Kaut. (text.p.49, न चाभियुक्तेभियोगोरित). Compare sec 135 (2) of the Civil Procedure Code as to freedom of parties, their agents and witnesse from arrest while attending or going to and returning from a tribuna).

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109. A husbandman (should) not be arrested at the time of the sowing season, nor a soldier at the time of (the marching of) the army, nor one who has gone after having promised (to return) nor should one who has fixed a time (for his appearance) be arrested in the interval (i.e. before that time).

110. When the husbandman is ready to reap the crop, so also when the rainy season approaches, (the plaintiff) should not make (the defendant) engage in the dispute from the beginning (of the sowing of seeds) to the gathering (in of the crops). If (the plaintiff) arrests one who should not be arrested, the fixed rule is that he should be punished by the king.

111. The defendant when restrained by order of the king should stay (i.e.) should not break the order of arrest) and the wise say that (when he is so arrested) others should not attack him (by another suit).

112-113. The king should make the plaintiff give as much subsistence (lit. boiled rice) to the messenger, after the cause is finished, as is required for a day or two (that he spent in summoning and guarding the defendant &c) having regard to the time and place. Those who know the essence (of dharma) recognise that the subsistence (lit. food) due to the summoner in all cases depends upon the time, the place, the age (of the summoner) and the ability (of the parties).

(Persons not acceptable as sureties)

114-116. The master, an enemy, one authorised by the master, one who is under arrest, one fined, those who are accused (of grave sins), one who is a sharer in family property, an indigent person, those who are under a vow of perpetual studenthood, one who is appointed on the king's business, those who are ascetics (sannyasins), one who is unable to pay (the money due or amount in dispute) to the creditor (or successful party) and fine equal to that (the amount in dispute) to

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10 9 -110. Compare Br.p.288 verses 36-37.

112-113.Compare Kaut. (text.p.149) who says that 'the wages for the purusa are one-eighth (of the fine or mattter in dispute), that the subsistence on the way (for witnesses) depends on the value of the matter in dispute and that both subsistence on the way (for witnesses) depends on the value of the matter in dispute and that both these should be paid by the party that is chastised by the king. The last means that the costs of the suit fall on the defeated party. Dr. Sham Shastry's translation (p.190) 'fees for witnesses shall cover 1/8 of the amount' is not correct, as 'purusa' does not mean 'witness' but 'bailiff' Vide notes on verses 86-88 above.

114-116. 'Sans'ayastha' is explained as 'abhisasta' which is explained by Haradatta as one guilty of the grave sins enumerated in Apastamba dharmasutra. I.7.21.8, 'rikthi' means 'one who has a share in ancestral wealth, such as a brother', 'atyantavasinah' is explained by the Mit. as 'naisthikabrahmacarinah'. The Vir.p.58 says that the Madanaratna read 'anyatra vasinah' which it explained as dwelling in a different country. Yaj.I.10 lays down that the judge should require both parties to give a surety who would be able to pay the decretal amount and the fine that the defeated party would have to pay to the king (उभयोः प्रतिभूर्ग्राह्यः समर्थः कार्यनिर्णये).These verses enumerate those who are not proper sureties.

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the king, one whose father is living, so also one who incites (the party from whom surety is demanded), one whose antecedents are not known these should not be accepted as sureties.

117. If there be no surety given by the plaintiff who has a proper cause for dispute, he should be guarded and should give to the messenger (the person who keeps guard over him) wages at the end of the day.

118. A person belonging to the three higher castes, if without a surety, should be (confined) guarded by (warders) who stand outside (the lock up), but (the king) should keep sudras and others confined and fettered (if they cannot give sureties).

119. If he (person without surety) breaks (the restraint) and runs away, he should be fined eight panas, but in the case of persons of all castes, there should be no obstruction to the performance of (daily) obligatory actions (or duties such as bathing, worshipping, sandhya prayers &c.

120. The king should not allow a litigant to proceed with the litigation if he retains the property or money which he has (been shown to have) seized; it should be delivered over to the other litigant or should be kept with a third person (as receiver).

(The order in which plaintiff and defendant are to address)

121. The plaintiff (lit. the attacker) should first affirm (his case) and then the defendant (the person attacked). When they both have finished, the members of the court (the sabhyas) and after them the judge (should speak).

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117. The reading 'Yogyastu vadinah' would be preferable (meaning for the two parties a surety, who is a fit one in relation to the matter in dispute) but it is doubtful whether it is the origina reading.

120. Read 'grhita' for 'grahita' in the text. According to the Sm.C. this verse applies to a litigant who is shown to have seized upon the property in dispute; in such a case he should be made to hand it over to the other party if the latter is worthy of being entrusted with it or it should be handed over to a third party. Here we have the germ of the appointment of a receiver under order 40 of the Civil Procedure Code. The Vy.Mat.reads 'nyayo' for 'nyaye' and explains differently; 'grahana' means property pledged or mortgaged, If a creditor sues for recovery of money charged on some property the suit should not be proceeded with as long as he retains the property hypothecated; the property should be first returned to the debtor defendant (if he is worthy of trust) or should he kept with a receiver. The words of Vy.Mat.are ग्रहणं बन्धकं तत् तस्मिन्नेव समर्पणीयं यद्यसौ प्रत्ययितः। असत्यत्वे तु मध्यस्थे स्थापनीयम्। स्वयमेव चार्थिनः समुपस्थितत्वात् प्रत्यर्थिविषयम्. what follows these words is not quite clear.

121.The plaintiff's affirmation is called 'pratijna' or purvapaksa and the defendants 'uttara'. The order in the case of sabhyas and judge does not apply to the preliminary questions they put to the plaintiff, but only to their deliberations after they have heard the parties viz. to 'kriya' and 'nirnaya'.

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122-123. Who ever has suffered greater injury or whose matter is more important should have the position of the plaintiff and not he who first informs (the court). Who ever suffers greater loss of wealth or greater bodily injury should be given the position of the plaintiff and not he who first informs (the court).

(Characteristics of a plaint)

124-126. The plaint should be presented after putting down the period (of the transaction in dispute with reference to the king then reigning), the year, the month, the fortnight (bright or dark), the tithi (lunar day), the time (of enjoyment of the matter in dispute), the location (of the land &c) the country the place (village &c), the caste or species, the position of the body (or limbs), the age (childhood, youth &c), the dimensions or measurements of the thing sought to be recovered (by suit), the material (dravya, in dispute), the amount (of money &c in dispute), plaintiff's own name, the names of the kings (of the country) in order, the dwelling place (address), the name (or description) of the thing claimed (i.e. the relief claimed), the names in order of ancestors (father grandfather &c of both parties), the injury or loss (caused by the defendant), the person who got (the property by gift or sale &c) and the donor (or transferor) the reasons why the plaintiff submitted (to the enjoyment of his property by the defendant for a time) and other (necessary) details.

127-128. In disputes about immoveable property (the plaintiff) should set out (in the plaint) the following ten (details) viz, the country, the place (village &c), the situation (boundaries of the field &c or the figure) the caste, the name, the dwelling-place (of the parties), the measure, the name of the field, the father and grand father (of the parties), enumeration of the former kings.

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122. This verse states an exception to the rule contained in 121. The general rule is that he who first approaches the court with his complaint is the plaintiff and dominis litis. Compare Nar. आज्ञा लेखः पट्टकः शासन् वा आधिः पत्रं विक्रयो वा क्रयो वा । राज्ञे कुर्यात्पूर्वमावेदनं यस्तस्य ज्ञेयः पूर्वपक्षो विधिज्ञैः।। Dr.Jolly (Nar.p.34.v.38) is wrong in translating 'is known as defendant' (it should be 'as plaintiff'). Where both parties are in the position of plaintiff and defendant (because both make a claim against each other, as in a partition suit), Br.lays down the rule that where groups of persons come together claiming to be heard first, then the position of being first heard should be given according to the order of castes or after looking to the gravity of injury or loss of each (vide.Br.p.290 v. 4). Vide Manu 8.24 for the proposition that the causes of litigants should be investigated in the order of the four varnas. Vide.Vir.p.61 for elaborate rules. First rule is that he who comes first should be heard first. The second is that if several persons come at the same time, precedence is governed by the order of castes. Where the injury is greatest, that case should be heard first irrespective of caste or time of coming. Time of coming to court is followed when case is same.

124-126. These verses are an elaboration of similar verses of Br. उपस्थिते ततस्तस्मिन् वादी पक्षं प्रकल्पयेत्। निरवद्यं सप्रतिज्ञं प्रमाणागमसंयुतम्। व्य.मा.p.294 and स्मृतिच. III.p.81. Vide Yaj.II.6 and V.M.(text p.12) for a similar quotation from auother smrti. Compare Civil Pro. Code Order VII rules 1-3 and 6 setting out contents of the plaint. All the above need not occur in each plaint, but they must be stated according to the facts of each case.

127-128. 'Measure' means 'so many nivartanas in extent' (or acres as in modern times).

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129. Whatever (the plaintiff) being inflamed by any one of the passions such as lust speaks before the court should all be reduced to writing on a wooden board or some similar material with the word 'yes'.

130-131. He (the plaintiff) should delete superfluous (or unnecessary) matters (from the plaint) and should fill in gaps. He can set forth on the floor (additional matters or delete them) till the (form of) the plaint is finally fixed. The judge should have the plaint written down on a board with chalk as narrated naturally (by the plaintiff) and then on a leaf (or paper) when it is corrected.

132. He (the scribe) who writes down the words of the plaintiff or the defendant differently from what they narrate should be punished as a thief by the king who desires to enforce dharma.

133. He (the plaintiff) should get (time for setting out his plaint) till it can be drawn out of him or for three or seven days so that the man who wants to narrate his dispute collects his wits.

134. Since he (the plaintiff) makes his resolve (to file the suit) a long time after the cause of action arises, therefore he does not get time (after coming to the court), but the opponent gets time (to file his reply).

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129. Ragadinam refers to raga / sexual desire, krodha (wrath or anger) and the lobha (greed), or as Sar, says to raga (partially or love), dvesa (hatred), lobha and moha. 'Karana' means 'adhikarana' (hall of justice). This rule requires the scribe of the court to put down in writing whatever specially important circumstance a plaintiff lets cut in a moment of passion. An instance in point is the remark of the sakara in the Mrcchakatika where he adds 'na maya'. This verse is also the same as Nar. (p.27v.18).

130-131. These verses provide for the amendment or striking out of unnecessary, embarrassing or scandalous matters from the plaint. Compare Civil Pro.Code, Order VI rules 5, 16,17. The word 'bhumau' also includes 'wooden board etc.' on which the plaint is written. At first the plaint should be written on the ground or board as a draft and after amendments and striking out, the final plaint is to be inscribed as a court document on birch bark or palm-leaf or paper. Compare Br.p.292 verses 14-15. Amendments were to be allowed until the defendant filed his reply. Vide Nar.p.25v. 'Narrated naturally' 'without fear or preasure from the judge or assessors etc.

133. This and 135 contain exceptions to the general rule that plaintiff should get no time from the court to set out his plaint, since the plaintiff comes to court after well considering the strength of his case and determined to prosecute it; compare नारद सुनिश्चितबलाधानस्त्वर्थी स्वार्थप्रचोदितः लेखयेत्पूर्ववादं तु कृतकार्यविनिश्चयः।। and Nar.p.24.v.1. कौटिल्य also says कृतकार्यविनिश्चयो हि अभियोक्ता नाभियुक्ता (p.149). 'Sollekhanam' makes no clear sense. So it would be better to read श्वो लेखनं (meaning writing down the next day'. Narada has the verse श्वो लेखनं वा स लभेत् त्र्यहं सप्ताहमेव वा। अर्थी तृतीयपादे तु युक्तं सद्यो ध्रुवं जयी।। (vide.Nara.p.24.v.3). But the first half of that verse in the context refers to the defendant's getting time.

134. The Vy.Mat.(p.290) says that Kat. here simply explains the two words सुनिश्चितबलाधानः and कृतकार्यविनिश्चयः in Nar., quoted under the last verse, which are adjectives (qualifying

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135. Where in a suit the wits of the plaintiff or defendant desirous of (prosecuting) his claim forsake him, there time should be granted to both plaintiff and defendant.

(Defects of a plaint)

136. The plaint that is opposed to (the interests or usages of) the country, that is prohibited by the king, that contains a mixture of several titles of law, does not succeed (i.e. must be rejected as bad).

137. A king, from a desire to find out the truth, should certainly entertain even such a cause as contains many propositions and as is stated definitely so far as judicial requirements are concerned.

138. That plaint is regarded as unacceptable which lacks (the mention of) the time and place (of the cause of action), that omits the (statement of the) material (dravya) claimed or the amount and that is wanting in the dimensions of the thing claimed.

139. The plaint of that man who does not write down that the opponent does not wish to do what is just or that he does what is unlawful does not stand (or bear fruit).

140. He (the king) should abandon (not entertain) a plaint as vitiated that contains an unknown (or imaginary) grievance, that discloses no injury, that contains letters making no coherent sense, that gives no cause of action, that is incapable of proof and that is self contradictory.

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the noun plaintiff) that contain the reason why plaintiff after he comes to court should be alllowed no adjournment to present his plaint.

136. Compare Br.p.291 v.12 and Nar.p.26 v.12. Apar. says that a king's order 'in my kingdom there should be no dealing in rupees' is an example of what is prohibited. A plaint saying 'defendant stole my gold, I deposited a thousand drammas with him, he sold a cow to me without being its owner' is an example where several padas (titles of law), viz. 'steya', 'niksepa' and 'asvami-vikraya and mixed up. This would cause confusion if they were to be all investigagted at the same time, as the evidence in each case and the burden of proof would vary. Therefore these several titles should be investigated at different times. Vide Civil Pro. Code order II rules 4 and 6. The words 'bhasa, pakasa and 'pratijna' mean the same thing, as the Mit. on Yaj.II.6 says.

137. This rule is not opposed to the preceding. It can be explained in two ways. If several causes of action (such as recovery of debt, deposit, sale without ownership) are mixed up in a plaint, the king may accept it and investigate them at different times. Or the verse may mean that the cause of action (such as rnadana) may be the same, but the several items in it may be different and so the reliefs may be different (e.g.as Apar.says a plaint may assert that defendant borrowed a hundred gold coins in Benares, purchased a year afterwards some cloth and then in another place purchased cows or corn). Such a plaint is not bad.

138. Compare Nar.p.26.v.11.

140. The Vy.Mat.(p.295) notes that Br.had almost this very verse (Br.read 'sadosam ca' for 'nirabadham' and 'paksam raja vivarjayet') and quotes five verses from Br. to explain these six. There is no agreement among the writers on the meaning and examples of these According

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141. Those cognisant of (the true nature of) a plaint declare that to be a proper plaint which is free from the faults of a declaration, which is capable of proof, possessed of good reasons, definite and not self-contradictory.

142. (The plaint should be) concise in words, abounding in meaning (contents), unambiguous, not self-contradictory, free from arguments that would defeat it and capable of refuting opposite arguments.

143. When the plaintiff presents a plaint as described above, then the defendant should give his reply corresponding to the (contents of the) plaint.

144. If a statement, being asserted by the plaintiff in the hearing of the

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to Apar. and Mit, the example of 'aprasiddha' is 'my hare's horn has been taken away by the defendant, while according to Brhaspati 'aprasiddha' is that grievance which was never asserted by anybody and the Vir. notices this example and says that it would be an example of 'asadhya' according to Br. and gives 'defendant stole my field drawn by a thousand ploughs' as a proper example. The vy. Mat.criticizes this and the other examples given by the Mit.and Apar. as opposed to sastra. An example of 'disclosing no injury' is defendant stole my field drawn by a thousand ploughs as a proper example. The Vy.Mat.criticizes this and the other examples given by the Mit.and Apar. as opposed on his work by the light of the lamp in my house. According to Mit.and Apar. a plaint containing the letters ka, ca, ta, ca, pa, is incoherent. Br. gives two meanings of 'nirartha' viz. where the injury is so light that no man of ordinary temper would complain about it (compare see.95 of the Indian Penal Code) and the example would be 'he looked at me with a smile'. Another meaning is a plaint that contains no information that can be brought under the fourteen titles of law beginning with rnadana that are based on money (i.e. civil example of) nisprayojana is 'he sing sweetly near my house'. Br accepts this meaning and gives another viz, a plaint which does not contain information that can be brought under any of the four criminal titles of law (such as parusya, sahasa &c). An example of asadhya according to Mit.it I was ridiculed by Devadatta with the knitting of his brows. Witnesses hardly be found to prove this, nor can there be any writing and as it is a slight matter ordeals are inappropriate. According to Br hare's horn is stolen would be an example of asadhya. An example of self-contradictory would be I was cursed by the dumb man while Br.explains viruddha to mean opposed to the interests of the country, the capital or the king.

141. The Vy.Mat. has a lengthy disquisition on this verse, particularly on the first half. In Sanskrit logic pratijna, paksa, and sadhya are words sharply distinguished from each other, while in this verse they appear to be practically identical. Vide my notes on v.m.p.26 Narada declares pratijna to be the essence of all judicial proceedings (Nar.p.6v6). If the plaintiff changes his pleading he loses; similarly his assertions in the plaint must not be opposed to common are enumerated in Vy. Mat. as follows; प्रतिज्ञादूषणानि च परस्परविरुद्धार्थपदप्रयोग प्रतिज्ञान्तरकरण प्रतिज्ञाहानि प्रतिज्ञासंन्यासाश्रयासिद्धि धर्मिग्राहकप्रमाणविरोध विरोधिधर्मान्तर-ग्राहकप्रामाणबाधितत्वादीनि । प्रतिज्ञाहानिसन्यासताद्वरोधान्तराणि च। प्रतिज्ञादोषमध्ये किं वसन्त्येतानि नो चिरम्।। इति (p.292). The words capable of &c) mean that the plaint should anticipate such pleas as limitation, resjudicata and state how they would not affect him.

142. compare civil pro.code, order, vi rules 1 and 7.

143. compare Nar.p.24v 2 and yaj.II.7 and Br.p.290, v.7.

144. Compare Civil Pro.Code order VIII rule 5.

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defendant is not traversed (by the defendant) or if the defendant remains silent when he should have given (a reply), it (should be held by the court that it) is admitted (by the defendant).

(Whether the defendant's reply must be given at once or after some time).

145. If, after hearing the matter (the plaint) consigned to writing, the defendant for some (proper) reason requests for time in the suit, it should certainly be given to him.

146. (The reply should be given) at once or in one day or three or five days according to the importance (of the matter in dispute). He (the defendant) should get three fortnights or a week in (suits for recovery of) debts and similar causes.

147. The king should grant little or long time to the defendant looking to the time (of the transaction in dispute). The capacity (of the parties) and the gravity or slightness of the causes.

148. Time should be granted (to the defendant to file his reply), viz a day, a month or a fortnight, or a season (two months) or even a year or even beyond that according to the requirements of the importance or otherwise of the cause.

149. Where the value (of the thing in dispute) would deteriorate or there would be destruction or loss (of the thing), there no time should be given (for a reply) since the matter is urgent (lit. ending in total loss).

150-151. In (disputes about) cows, bulls, fields,women marriage, deposit, loans (of things for use), gifts, purchase and sale, violating a maiden, theft, quarrels (Parusya) wrongs attended with force, treasure, deceit, perjury, (the king) should make (the defendant) reply at once.

152. (The king) should make (the defendant) reply quickly even at an unusal time in disputes about crimes attended with force, theft, parusya (abuse, assault and battery), cows, accusations (of having committed grave sins), urgent matters, land. (Thus says) Brhaspati.

153. As regards causes (or transactions) that arise at once the king (or judge) should make (the defendant) file his reply at once or he may give time to the defendant in causes which arose a long time ago.

154-156. When the transaction is recent (the reply must be made) at once, when it is a month old, a day may be granted (for filing the reply), when it is six years old, three days, when it is twelve years old seven days may be given,

147. Verses 154-155 explain what time to file a reply is to be granted in accordance with the time of the transaction in dispute; while verses 156-158 refer to time according to capacity and verse 148 determines the time according to gravity of the cause.

148. Compare Br.p.293 v.6.

149. For the meaning of 'atyayika' compare atyaye below in verse 152.

152. Compare Yaj.II.12 and Nar.p.17 v. 45 for a very similar verse. Atyaya means loss of life or destruction of the thing in dispute. 'At an unusal time 'means' even at night.

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when twenty years old, he (the defendant) should get (a delay of) twenty days or half a month, when thirty years old a month, beyond that (i.e. when more than 30 years old) the time may be three fortnights; or (the king) may himself grant as he wishes any time short of one year; (he may grant) a year to those who are idiots or lunatics or overwhelmed with disease.

157-158. Where (the defendant) has gone to another land or if the where abouts of the subject matter (of dispute) are not known, or the vendor of a thing or the witnesses are staying in a foregin land, there time should be granted to men (defendants) till they return to their country. Even when once time (or adjournment) has been granted, it may have to be given again looking to the importance of the causes.

159. After that (i.e. after the plaintiff has finally completed his plaint) the opponent who has heard the contents of the plaint should narrate (to the court) his reply corresponding to the contents of the plaint.

160. If a person (the defendant) does not present himself when a decision has to be given on usages, the gift (or return) of money, desirable actions and service (or worship of deities), then (the king) should not cause an error (in the decision by deciding in defendant's absence).

161. If at that time (when defendant has to give a reply) there is an obstacle due to fate or the king, he (the defendant) is not defeated (in the suit) merely by his not challenging (the plaintiff's assertions) or his giving up (his defence).

162. (The defendant) should establish the defects (i.e. calamities) due to fate and king by means of witnesses; but (the defendant) who acts crookedly (perversely) should be made to pay a fine equal to the money (in dispute).

163. The opponent (lit. the person attacked) should (not) deliver a counter-attack against the plaintiff in any matter except in cases of assault and battery, theft, adultery, and urgent matters.

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157. 'Mula means' the person from whom a thing is bought in cases where another man claims ownership over it. Vide Vir.p.379.

160. The sense of the first half is not quite clear; 'chala' means 'mistake or mistaken utterance'. Compare Yaj.II.19 छलं निरस्य भूतेन व्यवहारान्नयेन्नृपः। and Nar.p.13 verse 29, it may be found on truth or on error etc.

161. Daivarajakrto dosah means interference due to an act of God or the king action (act state) i.e. irresistible force. Compare Br.p.295 v.9.

162. "Crookedly &c means if the defendant absents himself without there being any difficulty due to act of God or king, a decree ex parte should be passed against him and he should be fined.

163. The proper reading seems to be अभियोक्तारं नाभियुञ्जीत. The reading in the text would be opposed to Yaj.II.9. अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत्। कुर्यात्प्रत्यभियोगं च कलहे साहसेषु च। कौटिल्य (III.1.p.149) अभियुक्तो न प्रत्यभियुञ्जीत अन्यत्र केलसाहससार्थसमवायेभ्यः and Nar.(p.19 verse 55) For 'Atyaya' vide verse 152. Compare Civil Code order VIII.r.6. The idea of this verse is that defendant should not be allowed to demand by his reply an independant claim that does not arise out of the same cause of action or transaction as that in the plaint. For such a claim he will have to file a separate suit. But if plaintiff alleges assault by the defendant the latter can allege prior assault on himself by plaintiff.

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164. The king should cause (the defendant) to give a reply according to the requirements of justice after paying regard to whatever rules of practice have been handed down traditionally in matters (of dispute).

(Reply of four kinds)

165. A reply may be of four kinds, viz, admission of the truth (of the plaint), denial, a special plea, and the rule of former judgement (or res judicata).

166. If the opponent on hearing the contents of the plaint denies them either in express words or by implication that is a reply of denial.

167.If the opponent were to deny the cause of action, (contained in the plaint) that should be understood in judicial procedure as the reply of denial.

168. Declaration of the truth of the claim (in the plaint) is said to be (reply of) admission.

169. A reply of denial is of four sorts (i.e. put in any one of the following forms of expression), viz 'this is false' i dont know anything about this', I was not then present there (at the transaction mentioned in the plaint), I was not born at the time (of the transaction in plaint).

170. If the defendant, accepting the matters set out by the plaintiff as correct, sets up a plea, then Brhaspati declared that the plaint becomes weak (i.e. fails).

171. That is declared to be (a reply of) former judgement when a person, though defeated (lit. sunk) in a (former) proceeding, again causes (a plaint) to the written and is addressed (answered) with the words 'you were formerly defeated'.

172. (The reply of) former judgement is of three sorts (when the defendant says) 'I shall establish by means of the presiding judges or witnesses or a document that he (the plaintiff) was defeated by me formerly.

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165. Compare Nar.p.25 v.4 and Br.p.294 v.9.

167. The Vy.Mat.p.301 ascribes this verse to Brhaspati.

168. The reply of confession or admission is variously named 'satyottara,' or 'sampratipattyuttara.

169. This is practically the same as Nar.p.25 v. 5.

170. Vir. reads 'Bhrgu said' 'Adharya' means 'weakness of the plaint. The Par.m.(III.p.72) ascribes the verse to Brhaspati. Read in the footnote. An example of Karanottara or pratyavaskandanottara is where the plaintiff says that defendant took hundred rupees and the defendant replies either that he returned them or that they were gifted to him. The reading Bhrgu of vir. seems to be an emendation purposely made and katyayana appears to have taken three quarters from Br. and substituted 'adharyam etc' for 'pratyavaskandam tu tat' of Br.

172. A plea of former judgement could be established in three ways, viz citing the judges who decided the former case, by witnesses who knew of the decision or by means of a document (the written judgement in the former case).

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(Defective answers or defects in answers)

173-174. A reply, that is ununderstandable, or self-condradictory, incomplete, too wide, dubious, impossible, not clear, irrelevant, full of the fault of exaggeration that does not thoroughly meet (all the points of the plaint), that interrupts the plaintiff in stating his plaint, mysterious, making no sense, unconstruable without further exposition, unreasonable (or absurd) is not commended by the wise. That reply which interrupts the plaintiff in setting out the plaint, that does not thoroughly meet (all the point in the plaint), that is mysterious or makes no sense, that is unconstruable without further exposition and that is unreasonable, does not conduce to one's success.

176. That reply is ununderstandable which is narrated by one who does not know the peculiar marks (of the matter in dispute, such as the colour of a cow) or the figure (having long horns &c) or the number (such as a thousand) or the particular convention (or times of the matter in dispute) or is narrated in a language other (than the one known to the judge or assessors).

177. That reply should be regarded as self-contradictory when (a defendant) says thus 'I returned in my boy hood (plaintiff's dues) and (again says) I did not return.

178. That is said to be an incomplete reply where (a defendant) for saying 'this plaintiff was formerly defeated by me in this very matter only says he was formerly by me'.

179. That reply is too wide when (in a reply of admission) having to say 'I took' (as alleged in the plaint), the defendant says, 'I have carried out what was to be done' and then adds 'I formerly took the property or money (alleged).

173-175. Here again the terms are differently explained by different writers vide notes to V.M.pp.28-29. Besides verses 174-175 seem to be only different readings current in different localities. All the terms, except few are explained by Kat. himself in verses 176-186 Compare Br..p.293.v.8. An exmaple of an impossible reply is where a person of 20 says 'my grandson returned the debt'. Vir.explains not clear' as meaning one of which even the letters cannot be easily made out. An example of 'full of exaggertion' given by the Sm.C. and Parasaramadhaviya is, when the plaint asserts 'defendant has to pay me a hundred the defendant reply is 'I paid two hundred.

176. The explanation of the first half is in accordance with the parasaramadhaviya.

177. According to the Mit. (on Yaj.II.6) and Apar. 'akula' in verse 175 means the same thing as 'viruddha'. The example of 'akula' given by the Mit.is where, when the plaintiff charges defendant with a hundred suvarnas, the defendant replies that he took them but does not owe them to the plaintiff.

178. Here the defendant omits the important word 'defeated and hence the reply is incomplete. The Mit. and Apar say that the example is where in a plaint charging a debt of one hundred the defendant says yes. I owe five.

179 . The Mit. says that an instance of a 'too wide' reply is where, when the plaint avers a debt of one hundred, the defendant replies he owes two hundred.

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180. The wise hold that the reply is ambiguous in a judicial proceeding when instead of replying 'deyam maya' ('it has to be returned by me') he gives such a reply as 'maya deyam' (which means both it has to be given by me or it has not to be &c).

181. That is declared to be an irrelevant reply where (the defendant says that) the plaintiff either through strength or weakness formerly concealed a crime attended with force; this is regarded as unsaid (i.e. as no reply).

182. That reply is said to be not meeting thoroughly (the plaint) when to a plaint averring 'I gave to him a thousand and a half' the answer given 'is that half I returned'.

183. That reply is said to interrupt the (plaintiff's) words where, before the plaintiff has completely set forth his plaint, (the defendant replies) I did not formerly take (from him).

184. That reply is said to be mysterious in judicial proceedings when the reply is how will anyone give a red lotus that he (plaintiff) did not accept?

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180. The expression 'mayadeyam'may be read as 'maya deyam' or as 'maya adeyam' owing to 'avagraha.

181. 'balabalena' may also mean 'very strong' on the analogy of such words as 'caracara', 'calacala' 'patapata' 'vadavada'. The defendant in this avoids replying to the substance of the plaint and only puts forth something about the bad character of the plaintiff. Compare section 52 of the Indian Evidence Act which says that proof of character is irrelevant in civil proceedings and section 54 about the character of the accused in criminal proceddings.

18 2. An example of 'avyapi' (which is the same as 'avyapaka') is according to Apar. where the plaint says 'he took a hundred in Ujjain in the month of Caitra' and the defendant replies that he did not take in Ujjain in Caitra. This is an evasive reply. He must say he never received anything from plaintiff. Compare Civil Pro. Code.Order VIII rule.4.

183. 'Vyastapada' is differently explained by Mit.as meaning that sets forth a different title of law and the example given is when plaintiff avers that defendant owes a debt of a hundred the defendant replies that plaintiff kicked him. Here 'title' alleged is rnadana, but the reply contains the title, dandaparusya. The Vyavaharatattva notes that Bhavadeva read 'astavyastapada vyapi' and explained it as meaning full of words having no connected meaning. This would be somewhat like 'akula' Vide Vir.p.85 also.

184. The idea is defendant meant to say tht he offered back the red lotus to the plaintiff but he did not receive it and so he could not return it. He does not expressly say so, but puts forth his reply in the form of a question and in a way that is not clear. Besides the word tamarasa was not well known, not being universally used and being a word borrowed from Mlecchas. Vide Sabara's Ehasya on Jaimini I.3.10. This is the explanation of the parasaramadhaviya (III.p.76). The S.m.C. appears to take it differently. The defendant really meant to say I did not take a red lotus from you and therefore I do not give it back. The Mit. explain nigudhartha as containing an innuendo against the judge or assessors or the plaintiff e.g. when plaintiff says he owes me a hundred and defendant replies 'do I alone owe to him (suggesting that even the judge and sabhyas owe to him). Apar. explains it as meaning containing words the meaning of which is not well known and gives arjuni (in the sense of cow) and kasyap (the earth) as instances.

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185. Those who know the (principles about) replies regard that reply as making no sense when it is put in the form Is it always to be given by him alone? It may be given by me (or is it always not to be &c).

186. That reply, which is in the form crows have teeth though (as a matter of fact) crows have no teeth is called 'asara' (absurd); in truth it is not a good reply.

187. (A reply) that falls short of the matter in dispute, that is not clear, that is incomplete or too wide or unconnected; or not thoroughly covering (the points of the plaint), that is absurd or dubious, cannot traverse (defeat) the opponent (the plaint here).

188. That can never be a (proper) reply which is ambiguous, irrelevant, incomplete, too wide, covering only a part of the plaint.

189. That is not a (proper) reply which is a reply of admission as to a portion of the plaint, and a reply of a special plea as to another part (count in the plaint) and is also a reply of denial as regards another portion, since there is a blending (of several kinds of reply).

190. In one and the same proceeding, the burden of proof cannot rest

185. The first half contains a question and the answer is doubtful, depending as it does upon the tone in which it is uttered. Besides sadadeyam and maya deyam are ambiguous as we may separate the words into sada deyam and sada adeyam. Vide note on 177 for the meaning of akula given by the Mit.

186. The Mit. says 'asaram' means opposed to reason or common sense and gives the instance where plaint avers that defendant borrowed a hundred rupees at interest paid the interest but not the principal and the defendant replies that he paid the interest but never took the loan.

187. The reading is probably 'prastutad-anyad' for 'alpam' and it would mean 'irrelevant'.

189. If there is blending of several kinds of reply at the same time, it is an उत्तराभास and not a उत्तर proper This is the view of Kat. The reasons are given in the following verse. But if the various kinds are not investigagted at the same time, there is no defect.

190. For a detailed explanation of this verse, vide my notes to v.m.pp.29-35. 'Kriya' as Kat, himself explains in verse 216 below, means means of proof such as witness, decouments etc' and it also means 'burden of proof'. In a reply of denial the burden is on the plaintiff, in a reply of special plea or former judgement it is on the defendant, in a reply a admission there is no necessity to adduce proof. If a reply is a combination of denial and special plea (or res judicata), the burden of proof will be no both parties. But plaintiff and defendant cannot simultaneously proceed to discharge the burden.This is stated in the first half. If both parties cannot be allowed to discharge the burden of proof simultaneously they cannot both succeed at the same time. This is set forth in the words 'na carthasiddhirubhayoh.' If a defendant combines a replay of a special plea with a reply of former judgment, they have to be proved by means of different evidence. For example, where plaintiff avers 'he owes me a hundred suvarna and rupees' and the defendant replies the suvarnas were returned and as to the rupees there is a former judgement, the fact of the return is to be proved by witnesses or by a receipt (or other document) while the judgement has to be proved by producing jayapatra of citing the judges as witnesses. The means to prove the special plea will not prove the former judgment and vice versa. Hence a simultaneous reply of special plea and former judgment is not proper as two different means of proof will have to be simultaneously employed. This is set out in the words na caikatra kriyadvayam.

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upon both the parties (at the same time) nor can both succeed in (simultaneously) establishing what they desire to prove nor can two methods of proof be employed (simultaneously) in the same proceeding.

(Matters that cause failure in litigation)

191. If (the defendant) after accepting what is first stated (by the plaintiff) were to set forth in his reply a plea stronger (than the averments in the plaint), then the latter (the plea) has to be established (by evidence) and not the former (viz the averments in the plaint).

192. (The defendant) should give a reply corresponding with the matter (alleged in the plaint); (the king or judge) should, if he does not (voluntarily) give a reply compel him to give it by means of such methods as coaxing, deceitful tricks &c till the objects (viz the giving of a reply and finding out the truth) is accomplished.

193. If any matter is not alleged by the plaintiff (in the plaint) either through oversight or fraud, but is given out in the midst of the reply then it should be accepted (by the judge) so far as both (the plaintiff and defendant) are concerned.

194. When a defendant though urged by the (four) methods, would not give a reply he should be regarded as defeated after seven days have expired and should give (to the plaintiff what he claims).

195. If a person, after lodging a plaint abandons (his original claim) or puts forward a different one he (must be deemed to have) resorted to a totally different case. Such a plaintiff becomes a losing party.

196. If a person, who having made an attack or charge against another, (afterwards) says 'I did not put forward any dispute' (against him), he thus becomes

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191. This only means that in a 'karanottara' (reply of special plea) the onus of proof is on the defendant. Compare verse 170 above.

19 2. The four - well known means are: sama, dana, bheda and danda. They are defined by Harita as प्रियपूर्ववचः साम भेदस्तु भय दर्शनम्। अर्थापकर्षणं दानं दण्डस्ताडनबन्धनम्।। (Quoted in Sm.C.III.P.104). The same work quotes a verse of Vasistha enumerating seven means कौटिल्यं सामभेदौ च दण्डश्चेति चतुष्टयम्। मायोपेक्षेन्द्रजालानि सप्तोपायाः प्रकीर्तिताः।।

193. While the reply is in course of being given, if the plaintiff alleges any matters in addition to those stated in the plaint, the plaintiff may be allowed to do so and the defendant's reply to the additional matters may also be accepted. This implies that after the reply is completely set out, the plaintiff cannot add any thing. This is expressly stated in verse 206. Compare Civil Pro. Code, Order VI.r.17 and Order VIII rule 9.

194. Compare Order VIII rule 19 and order IX r.6. Vide also kaut. (text p.149) and translation p. 190 the defendant may be allowed three or seven days etc.

195. Compare Nar.p.19 v.56 and p.29.v. 24 and Yaj.II.9. The V.M.notes that such a plaintiff becomes liable to be fined, but does not altogether lose his cause if it is of a civil nature (text p.19). For the fine in such a case vide verse 202 below. Kaut. also enumerates (p.149) many causes of parokta the first of which is 'forsaking the point first set out, he goes over to another.

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one who speaks contradictory things; (the judge) should direct him also to be a losing party.

197. That plaintiff, who having caused (his plaint) to be written (on paper or a leaf) desires to subtract sentences from it or to add them to it, would become a losing party. He does not deserve to be the plaintiff.

198. The wise hold that the members of the court (sabhyas) and witness are (called) kriya. He is styled kriyadvesi (shunning judical investigation) who through ignorance (or infatuation) hates (or avoids) that kriya.

199. (A litigant) if he does not present himself (before the court) after he is summoned, he loses his cause at once.

200. If a litigant even when asked speak out does not say anything (remains silent) he deserves to be at once confined (in jail). The next day that foolish person should be understood to have become a losing party.

201. Where he (a litigant) desires to obtain a long time (a long delay or adjournment) merely under a pretext, that should be regarded as deceitful and is declared to be a reason leading to loss of the cause.

202. One who changes his pleading should be fined five panas, one shunning judicial investigation, should be fined ten panas, one failing to appear twelve panas, one who remains silent, sixteen and one who absconds after receiving sommons, twenty panas.

203. The king should punish (fine) him who though thrice summoned, does not come (to court) or absconds though summoned and allowes five days to pass (with one appearing before the court).

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197. The Sm.C.explains that as long as the plaint is written only on the ground with chalk etc. the plaintiff is alllowed to add to or subtract from it (vide verse 193 above) and that this verse applies only when the reply has been fully set out. If he adds or subtracts while the reply is being given he is only to be fined, but does not lose his case altogether.

198. According Nar.p.31v33 there are five classes of persons who may be called 'hinavadi' (cast out in their pending suit) viz. 'anyavadi' 'kriyadvesi, 'nopasthata' 'niruttara' and 'ahutaprapalayi' verses 195. 197 illustrate the first. This verse illustrates the second, verse 202 lays down the fines for each of these. Vide Br.p.295 v.5 for four kinds of hinavadi.

19 9. This speaks of nopasthata of Narada Compare order IX rules 2,6,8.

20 0. This explains 'niruttara'.

2 02. The Sm.C.explains that Nar. enumerates five hinavadis to show that each succeeding should be fined more heavily and not because there are only five kinds, since there are other kinds also. Vide Nar.p.31.v.33 for these five terms. Br. (p.295.v.5) mentions four kinds of hinavadis, two of whom the silent and absconder are the same as in Nar, but two others saksi parajita (convicted by witnesses) and confession are different. These five classes of hinavadis, though liable to fine do not lose their civil claims, as Nar. says a verbal error does not annual the claim in actions of any kind; so if the case relates to cattle or to a woman or to land or to debt he is liable to punishment but his claim is not annulled. The latter half only illustrates civil disputes. Vide.Mit.on Yaj.II.19 and Manu VIII 53-56 for hinavadis Vide also Kaut. text p. 149.

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204. Where (a litigant) divides (induces to be partial) even a single one out of the members of the court that have listened to the trial and where he offers a bribe to the opponent he must be indicated as a losing party.

205. In a civil dispute if a litigant himself threatens (the other side) or offers a bribe to him or threatens him through another or restrains him, in these cases the litigant becomes hina (i.e. a losing party or is cast off).

206. (The hinavadi) should be fined in accordance with the offence charged and no opportunity is to be given for litigating the same matter again; when the averments of both (plaintiff and defendant) have been written down and the consideration of the dispute (by the members of the court) has started, who ever then adds what is improper is cast off from his claim.

207. He, who after announcing his witnesses, does not bring them (before the court) at the trial at his sweet will that litigant in consequence of this loses after thirty days.

208. If a man has been defeated becasue he filed no reply through having absconded or because he resorted to a different case (from the one in the plaint), his cause may again be tried, but not of him who is defeated in accordance with texts laying down that result (viz irrevocable loss of the cause).

209. The wise declare a retrial of the cause for him who was defeated in accordance with texts speaking of a 'hina' (losing or cast off) litigant; but there is no retrial for him who is defeated in accordance with texts that lay down (in express words) the loss (of the matter in dispute).

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205. Vir.and Sm.C. ascribe this verse to Br.The same results follow whether these causes occur singly or cumulatively.

206. The first half there refers to criminal disputes as explained by the Vir.(p.101) which ascribes the first line to Brhaspati. The last two lines mean that he loses his claim altogether, if he makes a case not in keeping with what he stated in the plaint after the judges have begun to consider the matter. Compare Yaj.II.16. The reading 'anuktam' of Apar. means if he avers what was not said in the plaint, which means practically the same thing as above.

207. At his sweet will this means not being prevented by fate, or the king or some other irresistible force. Br.(p.295.v.7) has almost the same verse साक्षिणस्तु समुद्दिश्य यस्तु तान्न विवादयेत्। त्रिंशद्रात्रात् त्रिपक्षाद्वा तस्य हानिः प्रजायते।। (स्मृतिच.III.p.110). vide also Br.p.295 verses 8-9 for ate or king.

208. The first part means that if he can sustain his case on other sound grounds, a litigant, who has his cause cast out for a absence, or for change of pleading, can demand that the case may be heard. But if he is guilty of conduct which has been declared by express texts to entail irrevocable defeat (such as in verse 205) then he cannot have a retrial. Compare Nar.p.34 verses 40-41.

20 9. Compare Civil Pro.Code order IX. rules 4, 9 that provide for setting aside the dismissal of a suit and rule 13 that provides for setting an exparte decree aside.

210. The Vir.(p.194) explains that they would have each to pay a fine double of that imposed on a party defeated after a contest and not double of the property in dispute, since the rule would be inapplicable to criminal and other cases where there is no property in dispute. But

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210. Those (litigants) who after informing (the king) are won over by money and compromise (their dispute) by a private arragement would be liable to a double fine, since they there by cheat the king.

(The stage of the adducing of Proof)

211. Even the plaint reaches the position of being the reply when there is a special plea (raised in the reply); hence it is declared that in such a case the adducing of proof must be directed towards the establishing of what then becomes the claim (viz. the special plea).

212. When (the plaint) after being properly amended is written down in this way and when a reply free from defects has been given, it is necessary that the defendant or the plaintiff take up the adducing ot proof.

213. That is (styled) sadhya (the claim to be established) which the plaintiff himself proposes to clearly establish and that is (styled) sadhana (means of proof) by which the entire clain (of the litigant) is established.

(Means of proof and their relative strength)

214. Documents, witnesses, enjoyment (or possession) these three are known as means of proof. Reasoning is the consideration of certain characteristics

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if the king is informed or if a matter is compromised with his permission, there is no fire. Vide Br.pp.295-296 v 10 for a very similar verse where Dr. Jolly's translation to pay twice the amount (in dispute) as a fine is not correct, Vide.Br.p.296.v.11-12 for compromise with king's permission.

211. The idea is that when in a reply of karanottara, otherwise called pratyavaskandana, the defendant admits the facts in the plaint and raises a special plea, the plaint really becomes the reply and the reply (i.e.the special plea) becomes (purvapaksa) and it is the defendant who has to begin to establish his special plea (i.e.the onus probandi as to the plea is on the defendant and the plaintiff has not to prove his allgations of fact, since they are admitted. Compare Nar.p.1.v.31. The Vir.(pp.70-81) has an elaborate note on this verse, in which the varying interpretations of this verse read with the texts of other sages given by Pradipa, Vacaspati-misra and Raghunandana are considered. According to the second writer a plea is either stronger than the plaint or of equal strength or weaker and that in the case of the first kind of plea (stronger than the plaint) the burden of proof is on the defendant while in the other two kinds, the burden of proof is on the defendant. The Vir.does not accept the threefold division of the special plea and adheres to the general propositions laid down in Narada and Vyasa that in a reply of special plea or res judicata the burden is always on the defendant and that in a reply of refusal the burden is on the plaintiff. Compare Br.p.297 v.20 for burden of proof.

212. In some case (as stated in the previous note) the burden is on the defendant and in others on the plaintiff. Compare.Br.p.294.v.2 and Yaj.11.7 and also बृहस्पति, ये तु तिष्ठन्ति करणे तेषां सभ्यैर्विभावना। तथवित्तवोत्तर सम्यग्दातव्यैकस्य वादिनः।। quoted in स्मृतिचं III.p.113. The deliberation of the court as to on whom the burden of proof lies is called pratyakalitu by some, whole Nar.p.29.v.21 seems to style the addition statements of plaintiff and defendant pratyakilita (वादिभ्यां लिखितच्छपं वत्पुनर्वादिना स्मृतम्। तत् प्रत्याकलितं नाम स्वपदि तस्य लिख्यं।।)

213. लशीदिस्तु युक्ति स्यात् is explained by Vir. as translated

214. For the means of proof compare Yaj.II.22. Vasistha XVI 10 contains the first half.

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which cannot be explained otherwise (than on the hypothesis propounded) and there are ordeals of poison and the like.

215. When the plaint has been completely written down in proper words, the plaintiff establish by proof (his claim) after the third stage.

216. The matter to be accomplished is called 'sadhya' and the 'means' are styled 'kriya' the latter (i.e. means of proof) are twofold viz, divine and human; human (means of proof) are documents witnesses and the like and divine (means of proof) are the balance and the like.

217. A wise man should avoid, when witness can be had, the divine means (of proof) (A litigant) who employs divine means (of proof) when witness are available, becomes a loosing party on that account.

218. If one (party to the litigation) puts forth human (means of proof) while the other (party) puts forth divine means, then the king should accept human means of proof and not divine.

219. When men dispute, if there be human means of proof though only reaching a portion (of the allegations in the plaint) then the human means should be accepted and not divine means though they may be complete (i.e. completely cover all the allegation).

220. The divine (means of proof) are of five kinds and human of three kinds.

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215. Vide verse 31 and notes there on for the four stages of a judical proceeding. The Sm.C.takes (III.p.124) the word Likhita to mean 'reply'.

216. We must read dhatadir for vadhadir. The first two lines are ascribed to Vyasa by Sm.C.(III.p.124) and Vir.p.III). Compare Nar.p.30.v. 28 where we have धटार्दिर्दैविकी स्मृता and Brhaspati द्विप्रकारा क्रिया प्रोक्ता मानुषो दैविकी तथा । एकैकानेकधा भिन्ना मुनिभिस्तत्ववेदिभिः।। quoted in स्मृतिच.III.p.124.

217. 'Witnesses' is illustrative and stands for all human means of proof (such as documents &c). Yaj.II.22 also expressly states that ordeals are to be employed only in the absence of documents, witnesses and enjoyment. Compare Nar.p.30.v.29.

219. A portion here means a substantial part of the allegations and not any part whatever however trifling or irrelevant it may be. Vide verse 222 below. For example, if the plaintiff asserts that defendant borrowed a certain sum at a certain interest and if he can prove, when the defendant denies all, the borrowing by human means but not the exact amount not the rate of interest, then he would succeed and defendant would not be allowed to have recourse to divine means. Compare Yaj.II.20 and Visnudharmasutra VI.22 for the proposition that when the plaintiff establishes a part of his claim (in case defendant denies everything) defendant has to render the whole of the claim.

220. Five this does not mean that there are no more but that they are not less than five. Pitamaha speaks of nine kinds of ordeals.

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221. When (a litigant) abandoning a strong ground resorts to a weak one (to prove his case), he would not be again entitled to rely on that (strong ground) after the members of the court have decided as to who should succeed.

222. That 'kriya' (proof) that would establish several unsubstantial parts (of the allegation of the party) but not the essential part should be cast off since it is unsubstantial (weak). That means of proof which would establish both sides (viz. the plaintiff's and the defendant's) should be cast off entirely.

223. In disputes when witnesses exist, divine means of proof are not prescribed and when there is a document, neither ordeals nor witnesses (are prescribed as the proper means of proof).

224. A document becomes lost (or useless) by time and it may be found by judicial investigation to be tainted (tampered or forged). In a judicial proceeding where no documents or witnesses exist, he (the litigant) should indicate (rely on) divine proof. In (a claim) that is to be established by divine proof, he should not employ a document or (other) human means of proof.

225. Whatever are declared as the conventional usages of the associations of traders, of guilds (of artisans &c) and of groups (of Brahmanas) and the like the means of proving them are documents neither ordeals nor witnesses.

226. Enjoyment alone is weighter in the case of the making and use of doors and ways as also in the case of water courses and the like and not writing nor witnesses.

227-228. In the case of (disputes about) things given (or promised to be given) but not given, in decisions (of disputes) of servants with their master, in the

221. This rule lays down that a litigant must rely upon all available grounds of attack or defence, whether strong or weak, and if he fails by relying upon a weak ground he cannot agitate the same matter on other and stronger grounds. This verse propounds the same strict rule of res judicata as is contained in explanation 4 of section II of the Indian Civil Pro.Code of 1908.

223. When there is a document – this contains the germ of the rule in section 91 of the Indian Evidence Act prohibiting, when a contract is in writing, the adducing of other evidence to prove the terms of the contract.

224. A document ..... time. This means that the letters may become illegible by lapse of time.

225. For sreni (guilds) and 'gana' vide notes on verse 82 above and also verses 679-80 where Kat. himself defines 'puga' and 'gana'.

226. It is better to read bhoge as para. M. does and connect 'kriya' and 'bhoge' with both 'door' and 'way'. If 'kriya' and 'bhoga' were taken to be separate subjects of enjoyment, it is difficult to bring out their sense. This verse refers to casements and enunciates the doctrine that they are acquired and proved by undisturbed enjoyment for a long time. Vide section 15 of the Indian Easements Act of 1882 In laubhai v. Bai.Amrit.I.L.B.2 Bom.p.299 at p.312 this verse is referred to.

227-228. Verse 227 refers respectively to the title of law called 'dattapradanika' 'svamipalavivada' and 'Krayavikrayanusaya'. In ancient India sales and gifts were made without a writing and property passed by mere delivery. Hence as a general rules witnesses were the only means of proof in these cases.

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matter of taking back a thing after it is sold and when a person having purchased a thing does not pay the price, in gambling and prize fighting- when a dispute arises in these matters, witness are the means of proof, neither ordeals nor witnesses.

229. When the dispute that is investigated is about 'sahasa' (heinous offences) or about physical injury or abuse and defamation and in causes that spring from force, witnesses or ordeals (are the means of proof).

230. In the case of persons guilty of secret heinous crimes the investigation (into their guilt) has to be made by ordeals and by means of reasoning, marks, by the gestures and by the outward manifestation (sweat etc), by the voice, the eye and movements.

231. In the case of all sahasas (heinous offences) of the gravest kinds, (the judge) should examine the truth by means of (lit, by the eye or sight of) ordeals even though there be witnesses, (This is the view of) Bhrgu.

232. When the witnesses are equal there also (the judge) should find out the truth by means of ordeals. In disputes about offences entailing death penalty if the plaintiff (or complainant) has recourse to ordeals though there be witnesses, (the judge) should not question witnesses.

233. In (disputes as to) debts the means of proof are declared, through the desire of doing good to the people, to be either a writing or witnesses or some sort of reasoning or the like or divine means.

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229. Compare बृहस्पति वाक्पारुष्ये महीवादे निषिद्धा दैविकी क्रिया । प्रदातव्या प्रयत्नेन साहसेषु चतुर्ष्वपि।। quoted in अपरार्क.p.629 Vide Nar.p.98.v.241. This verse prescribes an option between ordeals and witnesses.

230. The first part states an exception to the rule in verse 229. The latter half means that ordeals are not to be resorted to simply because there are no witnesses, but only when there is no clue to their guilt by means of even 'reasoning &c'. Ingita is explained as 'downcast look and the like and 'akara' as perspiration horripilation &c. due to emotions of fear &c though both words are given as synonyms in the lexicon of Amara. Vide Manu VIII.25-26 for the same means of arriving at mental states.

231. According to Nar.p.202v.3. 'sahasa' is the three kinds viz, of the first, middling and highest degree and according to Nar.p.203v.6 taking human life with poison, weapons or the like intercourse with or assault on another man's wife and whatever else that causes destruction of life is called sahasa of the highest degree. The minimum fines prescribed for these three kinds (Nar.p.203 verses 7-8) were 100,500 and 1000 panas respectively.

232. The equality of witnesses on both sides may consist in the number and in their trust worthiness. The offences that entail death are the five mortal sins. Compare बृहस्पति महापापाभिशापेषु निक्षेपहरणे तथा । दिव्यैः कार्यं परीक्षेत राजा सत्स्वपि साक्षिषु ।। (Quotes in व्य.मा. p.316). Vide Manu.XI.54 for the five great sins.

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234. One should prove a debt by means of these in order viz, urging (dunning) the debtor (to pay) on each occasion, putting forward some argument and the third being oaths.

235. If (the debtor) though urged (reminded) again and again three, four or five times (by the creditor) does not refute (or protest against) the latter's words, he must carry out (pay back) the object (the debts).

236. If dunning be protested against, he (the creditor) should follow him up with arguments relating to the place, the time, the connection (subsisting between the two parties), the amount (of the debt) and the actions (of the two).

237. If arguments also are futile he should decide by means of the ordeals alone such as fire, water, righteousness and the like that may be appropriate to the property involved, the time and the strength (of the defendant).

238. Where a document is declared before the king to be fraudulent (i.e. forged or fabricated), there the king occupying the seat of justice should find the truth by ordeal.

239. In (disputes about) land and in harshness of words (reviling and abuse) (the king or judge) should not prescribe ordeals.

240. In disputes about immovable property ordeals should be avoided. (The litigant) should establish his claim by means of witnesses, by writing or by possession.

241. In all disputes the king should always give a decision by means of the pramanas (documents, witnesses, possession) or by inference or even by ordeals.

242. Pramana (means of proof) is said to be three fold, viz, documents witnesses and possession. The wise say that 'hetu' is inference and tarka (ratiocination).

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234. The sun.C.explains 'codana pratikalam as urging the debtor for several times in the presence of third persons to pay the debt. Whenever the time for payment arrives and the debtor though dunned does not protest it is first method. Yuktilesa means you took from me so much money for such and such a purpose in a certain place and at a certain time.

235-237. These verses are almost the same as Narada (rnadana 236-238) and explain the three methods in verse 234. Vide Nar.p.97. In 236 what is meant is that the creditor should himself remember the time, place &c and remind the debtor of them. Sapatha' includes both oaths and ordeals compare manu 8.109. The reading sapathair enam ardayet, of narada means he should make him undergo ordeals and is better.

239. This is not in conflict with verse 229 which gives an option between witnesses and ordeals in the case of 'reviling' etc. That verse refers to serious offences of reviling while this refers to slight ones.

240. This verse is almost the same as that of pitamaha quoted in Sm.c.(III.p.121) स्यावरेषु विवादेषु दिव्यानि परविर्जयेत्। साक्षिभिर्लिखितेनाथ भुक्त्या चैतान् प्रसाधयेत्।। We should read pariharayet (in the text).

241. 'Inference' – Gautama (XI.23,24) says that is arriving at justice ratiocination is the means etc. (न्यायाधिगमे तर्कोभ्युपायः। तेनाभ्यूह्य यथास्थानं गमयेत्।)

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243. In the absence of each of the preceding (the king should decide) with the succeeding, but never otherwise, (he should decide) by the pramanas that are indicated by the litigants, viz possession, documents and witnesses.

244. No one should prescribe ordeals for the plaintiff (lit the attacker) those who are adepts (in the knowledge) or ordeals should offer ordeals to the defendant.

245. In a reply of denial it (vyavahara, the legal proceeding) has four stages (lit. feet) and so in pratyavaskandana (reply of special plea) and in the reply of former judgment, but it should be known to have (only) two stages in replies of admission.

246. Defeat is said to be two-fold, viz declared by another (i.e. by the judge) or by oneself. The former is of ten kinds and the latter is only of one kind.

247-248. Going over to another (ground of) dispute (i.e. change of pleading or front), conflict between former and latter averments defects in the production of one's means of proof, lending support to what the opponent says, non mention of the place of the transaction in dispute, mention of a wrong time and place (for the transaction), bribing witnesses, hatred of saying out things (when examined) putting forward of an improper place and interfering with questions put to witnesses (these are the ten kinds of defeat due to another).

(Documents)

249. Documents are declared to be of two kinds viz, made in one's own hand and made in the hand writing of another, (the first is valid) whether attested by witnesses or not. The validity of both follows from the usage of the country (where they are written).

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243. The first half must be read with verse 241 and it means that if pramanas are available he should decide with their help if not available then by ratiocination and then by ordeals. If no ordeals are possible then the king's own discretion is the final arbiter, as pitamaha says लेख्यं यत्र न विद्येत न भुक्तिर्न च साक्षिणः। न च दिव्यावतारोस्ति प्रमाणं तत्र पार्थिवः।। (quoted in स्मृतिच. III.p.123).

244. This means that in a reply of denial, there cannot be an ordeal, are there the burden of proof is on the plaintiff. Yaj.II.96 notes that ordeals may also be left to the option of the parties also i.e. even the plaintiff may undergo an ordeal.

245. In verse 31 above the four stages (padas) of a judicial proceeding are enumerated. In a reply of admission there is no need to deliberate as to the burden of proof or the means of proof and so there are only two stages, viz, plaint and the reply. The Vy.Mat.p.284 notes that where the plaint is such that it deserves (of the court) rejecting it; similarly where the reply is no real reply, there are only three stages plaint, vitiated reply and judgment in favour of plaintiff).

246. In the reply of admission or confession, the party is defeated by his own words. This is the one kind of defeat due to one's self. The Sm.c.(III.p.130) notes that what he considered (verse 259) is to be written by another, but his own opinion (verse 261) was to be written in his own hand by the king.

249. This is Nar.p.75.v.135.

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250. That should be known as a document written in one's own hand which is written by the debtor with his own hand though there are no witnesses (on it), the wise regard it as valid.

251. (one) should should cause the origin (of the parties to the transaction), the caste, the names and the amount of money to be written (in a writing) In this way one remembers what was done; a matter that is not consigned to writing perishes (by lapse of time).

252. A document should be attested by witnesses and should be so written as not to transfer the order of letters (required to express the sense), should observe the local conventional usages (as to documents) and should contain full details as to all matters.

253. That document which contains the proper framing of letters and sentences, which is unambiguous, all the letters of which are clearly legible, the stops of which are not lacking in the proper order, attains validity (lit.success or perfection).

254. That writing is called sthitipatra (deed of convention) which is made for the validity of (for preserving intact) the usages of men versed in the four vedas, of a city, of corporations, of groups and of the citizens.

255. That is known as visuddhi-patra (deed of purification) which is given to persons with attestation of witnesses when they have performed the penance (prescribed) and have become free from the accusation (of the commission of grave sins).

256. that writing is called a samdhi-patra (deed of peace) which recites what happened when an accusation is brought (against a person) before all the best (leading) people.

257. A deed of boundaries is made when a dispute as to boundaries is decided.

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250. Yaj.II.89 affirms that a document written by oneself is valid. Even though not attested by witnesses, against the person writing it in the absence of force or fraud.

251. Prayuktasya may also mean what is lent at interest. As to writing perpetuating testimony compare Br.p.304.v.2 and Nar.p.58.v.70.

253. The stops of which &c. This is the translation of 'ahinakrama-cihnam' which may also mean the seal on which is not out of order. This will apply only to a royal document.

254. Vyasa as quoted in Sm.c.(III.p.135) enumerates eight kinds of writings viz, ciraka, svahasta, upagata, adhipatra, krayapatra, athitipatra, samdhipatra and visuddhipatra. The Sm.C.notes that there are other documents also such as a deed of partition. Br.p.304.v.divides writings of ordinary people into seven varieties (viz. of partition, gift, purchase, mortgage, agreement, servitude and debt and royal edicts into three. Br. gives definitions of these seven.

256. This verse is rather obscure. What is meant seems to be that a compromise arrived at as to an accusation before the leading people of the place is put down in writing which is then called samdhi patra.

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258. That document is declared to be royal which has on it the king's own hand and which is marked with the royal seal and which is attested by witnesses in all matters.

259-264. The statements of the plaintiff and the defendant, the averment (of the plaintiff as to the relief claimed), the statements of witnesses, the decision of the dispute, how the matter was considered by himself (by the king), these should be set out in their order in writing. First the statements of the plaintiff and defendant should be set out, after that the words of the sabhyas, of the judge or of the family members and therin also should be written the decision of the case according to the rules of smrti and the (final) opinion (of the king). The plaintiff is to be put in possession of the matter that he succeeded in proving after being commended (on his success) and the king should give him a writing under his own hand and he should make the members of the court who were there (at the time of the hearing) and who are proficient in smrti to sign (the judgement) as in the case of (other ordinary) writings. A writing executed in this mode the wise declare to be pascatkara where the litigant discharges his burden of proof by resorting to the (prescribed) means of proof only, there (the document) is called pascatkara; the term is not applied to all (decisions in all matters).

265. That is jayapatra (a document recording victory in a litigation) which is given to those who are cast off (in their cause) because they aver something other (than what was first stated) and other hinavadis and which contains a recital of what happened.

(Examination of documents)

266. (The judge) having summoned by order of the king should examine as justice requires documents according to the usages about documents (prevalent in the country) and witnesses according to the characteristics of witnesses (laid down in smrtis).

259-264. The latter half of 260 and 261 explain what is meant by Yathapurvam in the first half of 260. Kat. Applies the term pascatkara to a final judgment arrived at after hot contest between the parties, i.e. where all the four stages of a judicial proceeding have been gone through. If there is only a reply of admission or if the suit is decreed ex parte or if the plaintiff or defendant is non-suited for being a hinavadi then the decision is not a pascatkara, but it is a jayapatra (document of success). Kulani (family members) we saw above in verse 82 that they were the court of lowest jurisdiction. For the contents of judgment compare civil pro.code.order 20 rule 4.

265. Kat.restricts the use of the word jayapatra to a judgment given in cases of those whose claims are cast off for various reasons without a thorough trail while he applies the word pascatkara (lit.means refutation) to a judgment given after complete contest. Here in he differs from Brhaspati, Vyasa and others who employ the word jayapatra for all judgments. Compare Br.p.298 verses 3-4 for the contents of jayapatra. Kat. Seems to have been the first to coin the word pascatkara. Sm.c.(III.p.129) gives a definition of jayapatra from Brhaspati. पूर्वोत्तरक्रिया युक्तं निर्णयान्तं यदा नृपः। प्रदद्याज्जयिने लेख्यं जयपत्रं तदुच्यते।।

266. The latter half occurs in Narada (vide Nar.p.23.v.70.).

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267. That document which contains the proper framing of letters and sentences, which is unambiguous, all the letters of which are clearly legible, the stops of which are not lacking in the proper order, attains validity (lit.success or perfection).

268. That is said to be a document marked with the hand of another, which is in accordance with local usage, which gives the year, month, fortnight and the like and the rate of interest and bears the signatures of the debtor, the witnesses and the scribe.

269. That becomes a false document the letters where in stand away from their proper places, are not in a line, are ambiguous, and do not possess the characteristics (of genuine writing).

270. (That writing) is defective which is opposed to local usage, which is ambiguous, which is devoid of the proper order (of words and sentences), which is executed by one who is not owner (i.e. the proper and authorised person) and which is wanting in the (statement of the) matter to be effected (by a document).

271. A document executed by a person intoxicated or by one under fear or one defrauded, or executed by one who is or by a lunatic or who is distressed (by msifortunes or diseases), by women, by children and by those who are not independent (i.e. who are not their own masters) has no validity.

272. If a person even after (an invalid transaction) is publicly announced does not (take steps to) anual (it) the next day, then it would come to be valid, except transactions entered into by persons intoxicated or lunatics.

273. A document may be vitiated (invalid) owing to the defects of witnesses or of the scribe or to the fraud of the creditor or of the executant.

274. A documents made by persons guilty of faults becomes vitiated while one made by persons free (from any fault) should be declared to be valid (lit.pure). That document (which is made) by witnesses, writer and executant guilty of deception (becomes vitiated).

275. The defects of the means of proof (such as documents and witnesses), when they are latent, must be declared (pointed out) by the litigant, (who wants to impugn them) at the proper time (viz, when they are adduced in the trial), but

268. Compare Nar.p.76.v.136. The words rate of interest are illustrative and imply pledges and other transactions.

271. Compare Manu VIII, 163, Nar.p.63.v.76.137 and Br.p.307.v.23 for very similar provisions. Compare sections 10-12, 15-18 of the Indian Contract Act (of 1872). Manu (VIII.165 and 168) declares that all transactions brought about the fraud or force are invaild and vide verse 464 below). In I.L.R.5. Bom.99 at p.104 the text of Brhaspati is quoted and it is suggested that 'strimatta' should be taken as one word in the sense of 'under female or aphrodisiac influence, but this verse of Kat, shows that that is not a correct way of understanding Brhaspati's text, since Kat. separately mentions 'woman' and 'matta'.

275. Vide V.378 below. The words 'by reference etc' should be connected with both latent and patent defects.

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the patent defects must be declared by the members of the court at the time (of the consideration of the evidence) by reference to the (rules of) smrtis.

276. The defects should be so pointed out that the witnesses, the writer and the executants would be found to be false; a documents becomes invalid when these are (shown to be) vitiated.

277. when the opponent (defendant) avers that (the document) was not written by the scribe (by who it purports to have been written) or that it was not seen by the witnesses (by whom it is attested), then the document is said to be (charged) as false.

278. (A litigant) should not challenge a means of proof by (alleging) a defect which is false; if he were to make a false attack (against the proof adduced by his adversary) he would be liable to the fined and would lose his cause (the object he wanted to secure).

279. When (a document) has thus been challenged as invalid before the court (lit.before the royal seat), it should be considered and he (the judge) should examins the faults (alleged) in the document, holding consultation with brahmanas.

280.A document becomes vitiated (invalid) by anything that makes the witnesses or scribe or the executant thereof false; it is to the declared valid (lit. pure or free from faults) if these are free from defects.

281.A document in his own hand by the creditor and not attested by witnesses would be held to be false, if the maker of it (viz. the creditor) would not be able to establish that it was made by him (with the consent of the debtor).

282. If the debtor denies his own signature made on a document, the matter should be decided by (the evidence of) the witnesses on the document or by the opinion (i.e.evidence) of the scribe.

283. In disputes about documents whether written (by the man denying them) or not, the decision (about the genuiness) of it must be made by (the evidence of) witnesses; when a document is challenged as false, the litigant should cite the witnesses there on (as his evidence).

284.When is the case of all the three kinds of documents a doubt arises in the minds of men, then one should establish (their genuineness) by producing the signatures of the debtor, the witnesses and the scribe thereof (for comparison).

276-277. These lay down and illustrate the method of pointing out the defects of documents as required by 275.

279. Holding ..... brahmanas - vide notes on 57-59 above.

280. If the faults poined out by a litigant are not refuted by his opponent, then the document becomes invalid. Compare 274 (first half which is almost the same as the latter half of this verse.

282. Compare section 68 of the Indian Evidence Act.

284. Compare Yaj.II.92 and Nar.p.78.v.143. Br.(p.304.v.3) divides writings into three sorts, viz. those written by the king (rajalekhya) those written in a particular place (sthanakrta) and those written by a person with his own hand (svahastalikhita). Sthanakrta appears to

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285. If the scribe along with the witnesses be dead, the document would undoubtedly be proved to be genuine by (a comparision of) their (admitted) signatures and the like (with the signatures on the disputed document).

286. When there is doubt about the signature of the debtor (on a document) whether he be living or dead the decision about (the genuiness of) that document is to be made by (comparision with) other documents executed by him with his own hand.

287. Even when all these (viz, writer, witnesses and executant) whose signatures are made on the document which bears the royal seal are dead, that document is still held valid even though they are all dead.

288-289. What is directly perceptible is not (allowed) to be overruled by inference; therefore the decision about a document which is challenged as false is to be arrived at on the testimony of witnesses, since (the debtor or executant) may himself challenge a document as false for securing wealth to himself. A document (without attestations) should be proved to be genuine by (comparison with other) documents and one that is attested by witnesses by the (testimony of) witnesses.

290. When it is alleged that a document is false (the litigant) who would not establish it to be valid by the testimony of the witnesses and of the scribe, should be made to pay the highest amercement.

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mean written by professional scribes appointed by the king or his officers and attested by witnesses. Compare Nar.p.75.v.135. Kat. is probably referring to this three-fold division made by Br. VI (VII.3) divides documents into three varieties, viz. rajasaksika (i.e.written by kayasthas appointed by the king and bearing the signature of the presiding officers), writings attested by witnesses, writings, without witnesses.

285. Vide Vi.VII.13 for a similar idea. Compare section 69 of the Indian Evidence Act and for proof of hand writing by comparison sec.73 of the same Act. According to the Sm.C.the like include the gotra, caste etc.

287. The validity of the document is due to the royal seal which is prima facie evidence of genuinesses. This provision some what like sections 59-60 of the Indian Registration Act of 1908 and is a precursor of the solemnity attached to registration as laid down by the privy council in 8 Bombay Law Reporter 375. Apar. restricts this rule to a royal edict bearing the royal seal.

288. This applies to a case where a document is attested by witnesses and the debtor or executant denies it. In such a case the court is not to rely on comparison of the debtor's signature on the document with other admitted signatures of his. This process would be one of inference. Hence witnesses are in such a case to be examined and their testimony is weightier than mere comparison of handwriting. A witness is so called according to Manu (8.74) and Vi.(8.13) and Nar.pp.79-80 verses 147-148 because he has himself seen or heard a matter or experienced it, i.e. his testimony is direct. The latter half restricts comparison of handwriting to a document which bears no attestations and it occurs in Narada ऋणादान verse 145), Asahaya explains it differently, while the translation above follow the interpretation of the Sm.C.

290. A par. construes the verse differently. When an allegation, of falsity is made as to the writer (i.e.executant) of a document. The highest fine was 1000 panas according to manu VIII.138 or 1080 according to Yaj.I.366.

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291. When (a debt) has not been claimed by (the creditor) able to do so from (a debtor) who has wealth enough (to discharge it) and who is near (the creditor), then the bond (recording the debt) loses its strength, as this raises a suspicion that the debt has been paid off.

292. A document (executed) beyond thirty years, which has never been seen (by anybody) nor read out (by the creditor to anybody), does not attain validity even though the witnesses (on it) be living.

293. If a man does not show a document even though the debt (evidenced by the document) has ceased to bring interest and if he does not press the debtor (for payment) the document loses validity.

294-295. (The judge) should consider very carefully a document that is put (purports to be) in the form of a pascatkara (judgement after contest). If such a document stands (the test of) reasoning, then it is valid; otherwise it should be cast aside and he (the judge) should again decide (the matter in dispute). When what is not true has been established as the truth through ignorance, it should be set aside, even though it was established as valid with effort by (former) kings.

296. A (royal) edict becomes valid when it is free from defects as to the seal (thereon), as to the mode of writing it, as to its enjoyment (or custody), when it has the proper characteristics (of an edict) and when it bears the genuine signature of the king.

297. That writing which is free from faults and which is made known (to the people round about) attains validity.

298. If the debtor does not declare the patent defects of a document even when he has seen it, the document when it has stood (unchallenged) for twenty years becomes firm (i.e.unchallengeable thereafter).

299. When a thing is enjoyed for twenty years on a writing in the neighbourhood of (an opponent) able (to challenge the enjoyment), then that writing becomes free from defects.

291-292. Vide.Br.p.308.v.28 for same verses. Not being seen or read out to anybody leads to the inference that it was not meant to be acted upon, as it was negelected for a long time. Compare Br.p.309.v.31; also Nar.p.77.v.141 for a very similar verse.

29 3. The Sm.C.explains that this happens when the debtor is near at hand and is well able to pay.

294-295. For pascatkara vide verses 259-264 above. Vide verses 495-496 as to review of judgment.

296. Kriyasuddha is explained by the Sm.C.as meaning free from ungrammatical words and from the fault of disconnected words.

298. Debtor - this word is only illustrative and stands for all who are affected by a document. this prescribes a period of twenty years for avoiding voidable documents.

299-300. Apar. says that verse 298 refers to a document that is vitiated in its inception, while verse 299 refers to a document which is not vitiated but the witnesses on which are not living or which cannot be compared with other admitted documents. In the latter case twenty year's enjoyment under the document makes the thing belong to the enjoyer. Verse 300 gives an illustration of verse 298 with reference to things pledged under a document which has some defect.

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300. If for twenty years a pledge has been undoubtedly enjoyed, then the pledge becomes valid by that writing and free from defects (even if they existed at its inception).

301. When a dispute as to boundaries is decided, a deed of boundaries is made; faults there in must be declared up till twenty years therefrom (and not thereafter).

302. Where a debt is consigned to writing accompanied with the pledge (of a thing as security for the debt), that (writing) is regarded as valid, even if the witnesses be dead, provided there is (some) slight enjoyment by the creditor (of the king pledged).

303. A document, even though not bearing a seal and eventhough the witnesses thereon be dead, is valid if he (the executant) has obtained something (on the strength of the document from the creditor or has paid back (something) though not specified (on the document itself).

304. If (the creditor) has received something (from the debtor) or if (it be proved that) the creditor made an open assertion (that he holds a document against the debtor), then the document is valid even though the witnesses there on be dead.

305. A document which is openly shown, on each occasion, is read over or of which others are reminded become valid in all cases even when the witnesses are dead.

306. A document is in no case cast off by ordeals or by witnesses. The mode (of proving a thing) by writing is always superior and hence it is not cast off by any other mode.

307. The proof by writing can be refuted (or superseded) only by another annulling document relating to the same matter or by a document (again) made specially for the same matter and not by any other means of proof (such as witnesses).

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305. Openly shown etc. This means 'when it is shown to assembles of people in the village or of traders etc. when ever an occasion to show it could arise (such as for demanding periodic interest etc). This verse explains what is meant by 'prajnapti' (open assertion) in v.304. Vir.p.200 ascribes this to Narada. It is Nar.p.77 v. 140.

306. The witnesses here spoken of are not those on a document. This verse says that oral evidence cannot prevail over a document. Compare Br.p.309 v.31.

307. The idea is that one document (such as a mortgage or sale) can be annulled only by another document which reverses what was done before (such as a reconveyance or resale) or by a document of later date embodying the same transaction. Compare sec.92 of the Indian Evidence Act on the prohibition as to allowing oral evidence for altering or varying the terms of a written contract or grant.

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308. Just as the reflection (of a thing) made in a mirror is seen as if it were something real, though it is non-existent (unreal), so clever people fabricate copies of documents (i.e. they can fabricate writings resembling the genuine handwriting of other persons).

309-310. When a writing is given to another after taking money (from him), where a writing is concealed, when it is in the hands of another or when it is confined in another's house, where money is given or returned by first passing a writing, this should be understood to be the rule in deciding about the genuineness of documents.

311. He who makes a false document about the sale or mortgage of immoveable property, should be deprived of his tongue, hands and toes, when he is properly proved (to be a forger).

312. When a document is broken by dirt (soiled by dirt), when it is burnt, when it becomes perforated, when it has passed away (into another country or in another's hand) and when it is rubbed off owing to perspiration, another document should be caused to be written.

(Possession)

313. Documents, witnesses, possession - these are regarded as three pramanas (means of proof). Among human pramanas possession is regarded as equal to a faultless (valid) document.

314. When there is doubt (dispute) about a way, doors for exit (and entrance), water courses and the like, undoubtedly possession is the weightiest among means of proof.

315. A witness is weightier than mere inference, a document is weightier than witnesses (i.e. oral evidence); unbroken possession for three generations is weightier than all these.

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308. The Sm.C.(III.p.148) quotes a similar verse from Vyasa लेख्यमालेख्यवत्केचिल्लिखन्ति कुशला नराः। तस्मान्न लेख्यसामर्थ्यत् सिद्धिरेकैकान्तिकी मता।। Compare Br.307 v.20 and Nar.p.23 verses 69, 71-72.

309-10.The meaning and context of these verses is not quite clear.

312. Compare Yaj.II.91 and Nar.p.79 v. 146.

313. Compare Nar.p.58 v.69.

314. Verse 313 declared 'document' and 'possession' as equally weightly means of proof. This verse declares that in certain disputes (about easements) possession is superior to the other pramanas. Vide verse 226 above.Nar.(p.60 v.77) emphatically declares that as regards immoveables possession counts most (is nine points of law) even though there be a document and witnesses.

315. Vide Manu VIII.25-26 for signs from which inferences were to be drawn about intention or other mental states of men. What is meant by 'three generations' is made clear by Kat. himself in v. 318.

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316. Reliance should not be placed on (mere) possession by the wrongful possessor or his son (as his strong point) in the case of beasts, women and men (slaves). This is the settled Dharma (law).

317. Possession is declared to be of two sorts: viz, with title and without title. Possession which continues for three generations is independant (means of proof of ownership without actual proof of title), but if it is less (than for three generations), then it (is proof of ownership) if accompanied with title.

318. Possession from the grandfather is superior, possession from father also is approved, unbroken (possession) for these three generations (viz. grandfather, father and the man himself). extending over sixty years, becomes firm (i.e. indendent means of proof as to ownership).

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316. Vide Lalubhai v. Bai Amrit I.L.R.2 Bom. 299 at p.310 for explanation of this verse.

317. Agama means 'origin of title' or 'title' According to Br.p.309 v.2 ownership of immoveable property can be acquired in seven ways, viz. by learning, purchase mortgage, conquest, as dowry (with wife), inheritance in a family and succession to kinsmen. Narada as quoted is Sm.C. mentions six sources of ownership viz. by inheritance in family, gift, purchase, conquest, marriage and succession to a childless kinsman. Vide Gautama 10. 39-41 for sources of ownership. Vide Br.p.313 vv.26-27 for a similar proposition about possession.

318. There has been a great deal of divergence of opinion among the sages and nibandhakaras as to what length of possession would by itself constitute ownership. Narada laid down that possession within living memory cannot confer ownership if unaccompanied by title, but when it is enjoyed for three generations and thus passes beyond living memory (i.e.) when it is asmartakala) it becomes indepndently proof of ownership (vide Nar.p.62 v.89 and p.63 v.91 and Br.p.313 vv.26-27). But there is no unanimity as to what is meant by three generations. The Mit.on Yaj.II.27 says that 'smartakala' (time within living memory) is one hundred years as the veda declares that 'man lives for a hundred years'. Three generations would approximately extend to 100 years and so enjoyment for three generations way of saying the same thing as asmartakala. The Par.M.(III.p.142) says that according to one smrti each generation means a period of 35 years वर्षाणि पंचत्रिंशतु पौरुषो भोग उच्यते while according to Brhaspati quoted in the same work, each generation is a period of thirty years (vide Br.p.313 vv.23-24). 100 years are rather too long a period and so Vyasa cut down three generations to sixty years and Kat. is of the same opinion. Yaj.II.24 (literally interpreted) appears to have been satisfied with only 20 years in the case of immpoveable property and ten year's enjoyment in the case of moveables. Various interpretation of this verse of Yaj. were proposed in order to avoid its conflict with the dicta of other sages. Visvaruna explained that the real purport of this verse is to enjoin upon a man to be vigilant about his property (and not apathetic), since if another enjoyed his property for twenty years without any protest, there was danger of his being defeated in a court of law and that this verse

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319. When anything has been held under proper possession accompanied by title, the possessor gets it (i.e. becomes complete owner of it), it can then in no case be taken away from him (by judicial proceedings).

320. A litigant who relies only on possession and who has lost the document of his title should state in the assembly (of justice) the (length of) time (of his possession), the means of proving that (i.e.possession) and (the source of title such as) gift.

321. (In cases falling) within the memory of man, it is desirable that possession must be accompanied with title in order to be proof (of ownership) as to land; but in cases beyond the memory of man possession extending over three generations in succession (is independant and valid proof of ownership), since there is no certainty that there is no title.

322. As regards the first (possessor) title is the means of proof (of ownership); as regards those in the middle (i.e. the second and third generations) enjoyment accompanied by title (is the means of proving ownership), but unbroken possession for three generation is by itself the means of proving ownership (in the fourth generation).

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did not lay down that twenty years enjoyment would confer ownership on a wrongful possessor. The Mit. and most other writers of digests explain this verse as prescribing that the owner, if he allows another to enjoy his property for 20 or ten years, would lose the produce (or profits) of his property if he were to sue for the profits (but he would not lose the property itself). The Vy.Mat.connects this verse of Yaj.with the preceding and says that it means that if a donee, vendee or pledgee allows the property to remain for twenty years with the donor, vendor or pledgor and then the latter transfers it to another, the first dealing, though prior, is of no effect. Manu (VIII.147), Nar.p.60v.79), and Gautama XII.34 also say, that if a chattel be enjoyed for ten years by another before the very eyes of the owner without protest from him, he loses his ownership.

319. The Vy.Mat.explains that 'proper' means for twenty years. If a man in possession can show legal origin for it and also twenty years enjoyment, his title to the property is perfect.

320. Vide Nar.p.62 v 86 which says that he who pleads only possession but does not adduce title is to be considered a thief.

321. 'Anugama' is explained by the Mit. and most other commentators as 'certainty that there is no title' while kalpataru explained it as 'agamanusandhana (vide.Vir.205) and Vy.Mat.as trace or connection of title' (agamasya anvayah). Vide my notes on V.M.P.60 for detailed explanation. This is the same as Narada क्रणादान v.89) except that the latter reads भुक्तेः for भूमेः and लिखिताभावे for अनुगमाभावात्.

322. 'Danam' (gift) stands as illustrative of sources of title. The first possessor must show legal title; in the case of his son and grandson they have to put forward some title and also possession, while the fourth generation can rely only on possession for three prior generations (and need assert no other title). Compare Yaj.II.27 about the relative strength of title and possession.

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323. The (first) occupant, though he may have possession, should clear (by evidence) the defects (alleged) in the document (under which he holds), but his son (or grandson) should clear only the defects in possession and would not suffer for (lit.obtain) the defects of the documents (of his title).

324. What ever property has been (first) acquired by a man, if he were impeached (by another) he should clear (his title to) it. In his case possession, even though he enjoyed the property for a long time, is not desired (as the proof of ownership).

325. (T he king or judge) should not out of greed interfere with possession which is immemorial and not known (to have originated without title).

326. When a property has been enjoyed by (a man's) father according to the usual mode of enjoying (the property), that (man), when the father is dead, should not be called upon (to prove titile), since he got that property (from his father) by enjoyment.

327. When a land has been duly enjoyed by three generations, the fourth secures it (as owner) even in the absence of a document.

328. Just as milk producs by lapse of time curds which is full of taste, so possession transmitted for three generations becomes the source of conferring (ownerhsip) by lapse of time.

329. That possession which is unbroken and of long standing (immemorial) is strong (valid independently) in law. Possession, even though interruputed, (is valid) provided it was established by an ancestor (as based on title).

330. One should not put forward (mere) possession (as proof of ownership) in the case of women. (female slaves), temple property and state

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323-324. Compare Nar.p.63 v.90, Br.p.313 v.25 and Yaj.II.28. The Mit.explains that the occupant is liable to fine if he cannot show title, his son and grandson need only show immemorial possession and they are not liable to fine even if they show no title nor immemorial possession. In the latter case they may at the most lose the property. Vide आगमस्तु कृतो येन स दण्डयस्तमनुद्धरन् । न तत्सुतस्तत्सुतो वा भोग्यहानिस्तयोरपि।। quoted in स्मृतिच.III.p.165 and मिता on या.II.28.

326-327. Both these are Vi. V.186-187. Compare Br.p.313 v.26.

328. Compare Nar.p.63 v.91 and Br.p.313 v.27.

329. This is the same as Br.p.314 v.31. The principle is the same as that underlying Art.142 of the Indian Limitation Act. Viz.if a man establishes title and dispossession by another within twelve years before suit, he succeeds of ejectment 'strong' means 'rendering futile a document etc. opposed in tenor to it.

330. Compare Manu VIII.149, Vasistha XVI.18. Nar.p.61 v.81), and Br.p.312 v.21 (who mentions idiots and Yaj.II.25. 'Temple property' - Compare section 10 of the Indian Limitation Act (1908) as amended by Act I of 1929 according to which there is no limitation for a suit for following trust property in the hands of a

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property, of the property of minors and those who are learned in the vedas and as to (what is inherited) from the father and mother.

331-333. If a brahmacari who was engaged in his vow (of vedic study) extending over thirty-six years and a man in pursuit of wealth, who remains in another country for a long time, were to return (from his teacher's house) and being free from his vow were to look out for his wealth, then enjoyment extending over fifty years will (alone) make him lose his property (by the possession of another). Twelve years are declared to be the period for studies for (mastering) each veda and the time (of apprenticeship during which possession by another does not become adverse) for those who learn crafts is said to be the period required till they become masters in them.

334. The property of these (students of veda and of crafts), which was enjoyed by their friends and relatives while they were about and of those who have been convicted by the king (and imprisoned), is not lost by lapse of time.

335. When a thing has been enjoyed by a man's agnates and cognates and by his own people, there (ownership of the thing) would not result from mere possession; one should regard possession (as leading to ownership) in others (than these).

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trustee or in the hands of his legal representative or voluntary assignees or for an account when property has become vested as a religious or charitable endowment in him. 'State property' - compare Art. 149 of the Indian Limitation. Act which prescribes sixty years for any suit by or on behalf of the secretary of state for India in Council; 'minors' compare section 6 of the Indian limitation Act in favour of minors, lunatics and idiots. Vide Gautama X.48-49 according to which the property of minors and students was to be under state protection until they attained years of discretion and until return from their teacher. Vasistha 7-8xVI; 'from the father or mother' compare the rule of modern judicial decisions that the possession of one co-hair is not necessarily adverse to the other co-heirs. Vide notes below on verse 335 and verse 844 for the age of majority.

331-332. 'Thirty six years' - A Brahmacari had to spend 12 years in the study of each of the three vedas. Vide Manu III.1Gautama II.51 and 52, Yaj.I.36. Samavartana' - means returning from the teacher's house after finishing Vedic study and taking the ceremonial bath. Vide Manu III.4, Gautama II.55, Vasistha VIII.1.

335. Compare Br.p.310 v.11. This contains the principle that the possession of one co-owner or tenant - in - common is ordinarily the possession of all and that the mere fact that the profits of a property have been enjoyed by only one tenant-in-common for many years or that he alone is in sole possession does not by itself amount to the ouster of others and is not necessarily adverse to them. Vide I.L.R.46 Bom.L.R.199 and 1030 (p.c) 47 Cal.274.

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(Reasoning)

336. That man, who when besought (for repayment) by the litigant (creditor) three, four or five times, does not employ a refutation (of the assertion) becomes (established as a) debtor after that.

337-338. Offer of a bride, effacing the means of recognition, holding out a temptation (to the witnesses or sabhyas) and suppressing the expression of one's thoughts (on the face etc). these are the means of establishing (a claim against a person). where the denial (of liability) by a litigant is clearly made, if one of these is clearly established by the opponent, then the matter charged (such as a debt) is established as against him.

(witnesses)

339. The king should not delay in making the witnesses depose. A serious fault, viz, turning away from justice, would result from delay (in examining witnesses).

340. The king should himself examine the witnesses that are present (in court) and should consider along with the members of the court the statements made by witnesses.

341. Where it is doubtful who the witnesses (on a point) are time should be given for (producing) witnesses in order that proper means of proof may be found out; but where it is clear (who the witnesses may be) he (the judge) should make the trial proceed at once.

342-343. The judge should in a conciliatory manner question in the following way all the witnesses inside the court and in the presence of the plaintiff and the defendant) among themselves you know as regards this transaction, narrate them all in accordance with truth, since you are the witnesses in this matter.

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336. Compare Nar.p.97 v.237. If a creditor several times addresses a debtor saying 'you owe me money' and the debtor does not protest against such assertions, he will be held to be a debtor.

337-338. 'Effacing etc' - means tampering with one's signature or other sign that would establish one's liability according to Vir.p.225. Read 'prajnapanabhedah' as one word.

339.This applies where it is quite clear who the witnesses may be. But where that is not clear, time has to be given.

340. 'The king' - this is illustrative and includes a judge.

342-343. Compare Yaj.II.13 and Gautama XIII.5. These two verses are the same as Manu VIII.79-80.

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344. (The judge) should, himself being pure, question in the first part of the day, and in the presence of gods (idols of gods) and brahmanas men of the three first castes as witnesses for truth, they being pure and standing facing the north or the east.

345. (The judge) after having summoned all the witnesses, and having bound them strongly with oaths, should question them separetely, the witnesses being men of known character and conversant with the matter (in dispute).

346. The statement of a witness as to whatever has been perceived (or experienced) by him because of his being in the presence of the plaintiff and the defendant (at the time of the transaction) should be accepted (as relevant evidence) and not otherwise. So says Brhaspati.

347. The testimony of those, whose family and characters are well-known who are free from avarice and folly, who are truthful, pure, and men of eminence, leaves no room for doubt.

348. (The opponent) should be proved by the plaintiff (to be what he is alleged to be) by (the evidence of) witnesses who are similar to the opponent (in caste). A litigant of a lower caste should not establish (his case) by (the evidence of) witnesses of higher castes.

349-350. Those who wear symbols peculiar to their sects, srenis (guilds), pugas (associations), companies of traders and all others who form groups (or combinations) these are called vargas by Bhrgu. The leaders of the communities of slaves, bards, wrestlers and of those who subsist by elephant driving, horse-riding and the profession of arms-these are in each case called vargin. When

344. This is the same as Manu VIII.87. 'In the first part of the day' - vide verses 60-62 above. Compare कौटिल्य p.176 ब्राह्मणोदकुम्भाग्निसकाशे साक्षिणः परिगृह्णीयात्.

345. This is Nar.p.91 v.198. Compare Vi.VII.19.

346. Vide Manu VIII.74, vi.VII.13 for the proposition that a witness is one who has himself seen or experienced what he deposes to. Compare section 60 of the Indian Evidence Act (of 1872). This rule means that the oral evidence must be direct and not hearsay.

347. Compare Gautama XIII.2, Manu VIII.63, Yaj.II.68 and Nar.p.81 v.153. Here 'aptah' means those who speak the truth, while it means a different thing in v.361.

348. The latter half of this is not quite clear. We must probably read नोत्कृष्टैश्चावकृष्टस्तु. Vide verse 351. Yaj.II.69 says यथाजाति यथावर्णं सर्वे सर्वेषु वा स्मृताः (i.e. the witnesses may be of the same class or caste as the litigant or men of any caste may be witnesses for a litigant of any caste). Vide Nar.p.81 v. 154 (for the same option as in Yaj), Gautama XIII.3.

349-350. For sreni, puga and vrata vide vv.82, 225 and 679-80. Compare Nar.p.81 v.155 for a similar rule. Gautama XI.21-22 lays down that in disputes between agriculturists, traders, cowherds, usurers, and artisans the king should decide on the evidence of their headmen.

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these have a dispute with members of their own group (varga), vargins (leaders of the respective groups) are their (proper) witnesses.

351. Women should bear witness for women (when women are litigants), for (litigants of) the first three castes (witnesses should be of) the same caste as themselves, well behaved sudras for sudra (litigants), and men of the lowest castes such as candalas should be witnesses for lowest castes.

352. Where it is impossible to bring (as witnesses) those who stay in a different country, there the cause should be decided on evidence consigned to writing and sent by men learned in the three vedas.

353. Even a single person is made to depose as a witness if he was taken in confidence at the time of making a deposit; the messenger, sent by a litigant is a proper witness, though he is alone (i.e. the only witness in that case).

354. (In disputes about manufactured articles such as ear-rings) one should establish (identity of) that thing by (the evidence of) that man who produced the finished article; in such disputes he, though alone, is declared to be the means of proof.

355. The scribe, the judge, the members of the court these in order are declared to be witnesses (singly) when a cause has been investigated by the king.

356-357. There are others declared as witnesses though not so appointed (made or intended) by the parties, viz. the village (i.e. co-villagers) the judge, the king in the case of those who had judical proceedings (before him), one who

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352. This refers to evidence taken on commission. The idea is that the court should depute a learned man to take the evidence of witness staying in a distant land and the evidence thus taken down in writing by the person deputed should be read at the trial. Compare order 26 (rules 4 and 5) of the Civil Pro.Code.

353. The general rule is that there should be at least three witnesses. Vide Yaj.II.69 and Nar.p.81 v.153. Br.(p.301v.16) says that there should be nine, seven five, four or three witnesses, or only two if they are brahmanas learned in the vedas, but a single person was never to be examined as a witness. This verse states an exception to this rule.A dutaka is defined by Br.(p.300v.8) as one who is a respectable man, esteemed and selected by both parties, who comes near to listen to the speeches of the plaintiff and defendant. The reading 'yacite' for dutakah would mean 'in the case of a loan of an ornament etc.

354. This reading is much better. It means that the person who was sent to fetch an article on loan and who brought it is singly sufficient to prove what or how much was lent in case of dispute. All that this verse means is that one witness will do, even though many or even two are not available. This verse does not restrict the evidence to the manufacturer alone Vide.Vir.p.151.

355. Where the plea of res judicata was raised, the evidence of even one of these was relevant. Compare Br.p.300v.14.

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knows intimately the affairs (transacted by the two parties); one deputed by the claimant (to ask for a loan or to transact a business), and in disputes between members of a family even the members of the family may be witnesses.

358. In disputes about the shares of ancestral property, when a doubt arises, the statements of members of the family are means of proof, but not in other cases.

359. If one out of the witnesses that subscribe themselves (on a document) and that have been appointed (or cited) by the litigant deposes in a way different from (the others), all those become incompetent witnesses on account of contradiction.

360. Where a person is appointed by a man as a witness, the other party should not make him depose as his witness. In the absence (or death) of that person (who appointed the witness) a person deputed by him or a relative should make him depose (as a witness).

361. Those who depend for livelihood upon the subsistence given by a party, those who wait upon him or are his benefactors, those who are his relatives

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356-357. These verses are the same as Nar.p.81vv.151-152 except that Narada reads first-half of 356 as षडेते पुनरुद्दिष्टाः साक्षिणस्त्वकृताः स्वयम्. Witnesses are of two kinds 'krta' (made or appointed by the party) and 'akrta' (not so appointed). These two verses enumerate six kinds of 'akrta' witnesses. Nar.(p.80vv.149-150) says there are six kinds of 'akrta' witnesses and five kinds of krta witnesses viz. likhita, smarita, yadrcchika, gudha and uttara. Brhaspati (Br.p.296vv.1-2) enumerates twelve kinds of witnessess लिखितो लेखितो गूढः स्मारिताः कुल्यदूतकौ। यादृच्छिकश्चोत्तरश्च कार्यमध्यगतोपरः। नृपोध्यक्षस्तथा ग्रामः साक्षी द्वादशधा स्मृतः। (quoted in व्य.म.p.34 and व्य.म.p.321). Kat.appears to combine both Narada and Brhaspati.

358. Compare Br.p.299v.7.

359. Generally three witnesses were cited by a party to prove a transaction; supposing one of them deposed in one way and the other in another way, the two nullify each other. If the matter were to be decided on the testimony of the third, the result would be that the decision would have to be based on the words of one witness only. Therefore in such a case all the three witnesses become incompetent. But this verse cannot apply to a case where there are ten witnesses on a document, three of whom depose in one way and the rest in another way. In such a case the rule that the testimony of the majority or of men of higher character should be relied upon will have to be followed. Vide Nar.p.95v.229 Br.p.303v.35, Yaj.II.78 Manu.VIII.73 and Vi.VIII. 39 for the latter rule. Compare Nar.p.83v.169 for a rule similar to the one in 359. For the definition of subscribing witness (likhita) vide.v.371.

360. The Sm.C.explains that if anybody were allowed to cite any body as a witness, whether appointed by him or not, he would be 'svayamukti' (and so an incompetent witness according to Nar.p.83v.161).

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or friends or servants these are his aptas and are not competent witnesses.

362. The sons of one's mother's sister, the son's of one's full sister and one's maternal uncles - these are said to be sanabhis (connected with same womb), these should not be employed as witnesses.

363. Members of the same family, person having an interest (in the subject matter of the suit), one connected by marriage (with one's son or daughter), sister's husband, the father, a bandhu (a relative), paternal uncle, father-in-law and teacher - (these are incompetant as witnesses).

364. Those who are appointed (by the king) over towns, villages and districts and to positions (of responsibility) and those who are the favourites (of the king) these should not be asked (to depose as witnesses); they are the men of the king and devoted (to him).

365. In (disputes) about debts and the like, in which the transactions are of a fixed (or permanent) nature, witnesses should be tested (as to their competency), but testing (of witnesses) is very rare in sahasa (wrongs attended with force) or heinous crimes and in matters of an urgent nature.

366. In transgressions of royal commands, in adultery, in sahasas (heinous crimes), in theft, and in parusya (abuse and assault and battery), the judge should not test (the competency or character of witnesses).

367. If the attack (or complaint) be with reference to what took place inside a house or at night or outside the village, one should not inquire into (the character or competency of) witnesses.

368. When not asked by the litigant (to be witnesses), persons should not depose as witnesses; he who of his own accord takes upon himself to be a witness can not have the position of witness (at law).

361.This verse explains the word 'apta' occurring in the list of incompetent witnesses in Manu.VIII.64 and Yaj.II.71.

362. This verse is probably meant to explain 'sanabhi' in Nar.p.87v.180.

363. Person having &c - This seems to be the same as 'arthasambandhinah' in Manu VIII.64 and Narada (rnadana 177). Compare Br.p.302.v.29 for the whole verse.

364. Vide Nar.p.86-89vv. 177-187, Manu.VIII.64-67, Vi.VIII.1-5 and Yaj.II.70-71 for long lists of incompetent witnesses. This verse explains the word 'rajapurusa' in Nar.p.89v.185. Being the king's officers or favourites it is likely that the king or judge may be unduly prepossessed in their favour.

365.Compare Gautama XIII.9 (न पीडाकृते निबन्धः) Manu VIII.72., Vi.VIII.6, Yaj.II.72, Nar.p.89v.189. In such cases any person may be a witness but the circumstances of age and other disqualifications mentioned above may detract from the weight of the testimony.

367. Compare Manu.VIII.69-70.

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369. A witness is of two-fold mode (lit.path), viz. subscribing a document (as a witness) and one who is apart from it.

370. If a person has subscribed a document in his own hand and is the only surviving witness (out of all the attestors) and cannot recognise (the attestation) as his own, it (his attestation on the document) should be established by (comparison with other admitted) signatures of his.

371. That witness is called 'likhita' (subscribing witness) who is brought by the litigant himself and who (whose name) is placed on a document (as a witness); a 'smarita' (reminded witness) is one who (becomes a witness), without being subscribed on a document.

372. He is styled 'smarita' (reminded) who, being shown a transaction, is again and again reminded of it by the litigant (a party to the transaction in order that the transaction in order that the transaction) may be (effectively) proved (thereafter).

373. He who is brought for some purpose and he who comes (at the time of the transaction) casually - these two are witnesses, who are not subscribing witnesses, but establish the assertion in a plaint (about the transaction seen by them).

374. He is called a secret witness, who is made by the plaintiff to listen while remaining concealed to the clearly expressed words of the defendant in order to establish his own object.

375. That witness is called 'uttara' (indirect) who deposes as a witness over and above the (direct witnesses) because he listens (to what they have

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369. Vide प्रजापति साक्षी द्विभेदो विज्ञेयः कृत एकोपरोऽकृतः। लेख्यारूढः कृतो ज्ञेय उत्तरोऽकृत उच्यते॥ (quoted in स्मृतिच.III.p.184). The first stands for the five kinds of appointed witnesses and the latter (uttara) refers to the 'akrta' witnesses.

370. Compare section 71 of the Indian Evidence Act.

371. Compare Br.p.299 v.3 which is clearer. Br.p.299 v.4 explains who is called 'lekhita' (who does not subscribe himself, but whose name is put in his presence by another on a document).

372. This explains the words स्मारितः पत्रकादृते in 371. Compare Br.p.299v.6 for a similar definition.

373. Both there are यदृच्छाभिज्ञ in नारद (ऋणादान 150. The person casually coming or brought for a purpose is asked to bear witness to the transaction and although he and the 'smarita' are both not 'likhita' (subscribing witnesses), there is a difference between them in as much as they are not again and again reminded.

374. Compare Br.p.299 v.5.

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been) or is made to hear what they have heard.

376. He should be known as a secretly moving witness (gudhacari) and also as one intimately bound up in the transaction (karyamadhyagata) to whom something has been divulged through confidence or a transaction has been communicated in confidence (by both parties).

377. Where the plaintiff (i.e. the creditor or one party to a transaction) is dead there the witness is called 'mrtantara' (separated by death) and where the defendant (i.e. debtor &c) is dead, there also the same (term) is ordained (for the witness).

(proclaiming the weak points of witness)

378. Whatever faults there may be in documents or witnesses, they should be proclaimed at the time of the trial. (The judge) should not hold the witnesses ineligible (on account of faults) after they have deposed.

379. After a matter has been narrated (by witness) he who would point out faults in witnesses in whom he did not find fault at first and who cannot set out (a proper) reason (for not proclaiming them at first) should be fined in the first ammercement.

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375. This is the same as Br.p.300 v.11. Brhaspati gives two verses on 'uttara', the other being on p.300 v.10. They are not really two definitions, but one. Vi.VIII.12 says उद्दिष्टसाक्षिणि मृते देशान्तरगते वा तदभिहितश्चोतारः प्रमाणम् which is the same as Br.p.300 v.10. When a direct witness is about a transaction witnessed by him becomes an uttara witness. Vide notes to V.M.p.66 for further explanation.

376. We must distinguish between 'gudhasaksi' defined in 374 and this. Dr.Jolly translates both as 'secret witness'. This is the same as Brhaspati उभाभ्यां यस्य विश्वस्तं &c (quoted in वीरमित्रोदय p.145 and अपरार्क p.667). It is better to read उभाभ्यां for उल्लाप्यं as Vir.and Apar. do गूढचारी and कार्यमध्यगत are two names for the same kind of witness. If we read गूढचारी (who holds the secret of both parties), that would be a better reading, but it is not well supported. Dr. Jolly's translation of Br.p.300 v.12) is not accurate.

377. When the party for whom a witness is to depose is himself dead that witness is called 'mrtantara' and he ceases to be a witness. Vide Nar.p.83 v.165 and p.65v.94. Vy.Mat.op.326 explains that a witness becomes mrtantara either when the creditor or debtor for whom he is to depose is dead, or when the subject of the transaction viz.the slave, bull or chattel) is dead or lost. Nar.p.82 v.157 mentions mrtantara' as the last of the five classes of witnesses who cease to be so.

378. Here 'uktan' qualifies 'witnesses' and means 'uktavatah (when they have deposed). Vide notes to V.M.p.74 for further explanation. This is the same as Br.p.302 v.25, where Dr.Jolly translates differently.

379. 'First ammercement'. This is a fine of 250 panas or 270 panas (vide Manu VIII.138 and Yaj.I.366).

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380. (A litigant) should not challenge the means of proof (witnesses here) by (pointing out) faults that do not exist; if he were to make a false charge (about the faults of witnesses) he would be liable to fine and would also lose his claim that he wants to establish.

381. When the defendant or the plaintiff attempts to establish faults in the witnesses (cited by his opponent), it is not (to be deemed) a separate proceeding (and therefore as irrelevant) because it (establishing faults in witnesses) is useful in (deciding) the matter in hand.

382. The faults of witness (cited by a party) should be declared by (his) opponent in the open court, after writing them all down on paper (or leaf) and then (the witness) should be made to reply to them (to meet the faults).

383. In case of the admission (of the faults in the witnesses cited), they do not deserve to be witnesses (in the the cause tried); if it be otherwise (i.e. if the faults be not admitted), they (the faults) should be established by the opponent by offering proof of them.

384. The opponent, not clearly establishing the faults (pointed out in) the witnesses, should be made to pay a fine; all the witnesses that are established (as faulty) become bereft of the character of (proper) witnesses.

385. (The judge) should discern the (real) intention (or mental state) from the outward manifestations (such as sweat, horripilation), the gestures (looking down at the ground &c) and physical movements; the litigants becomes a losing party and he is found out (to be so) by inference (from the signs mentioned above).

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380. Vir (p.164) reads 'vapi' and so holds that there is an option (viz.he may either be fined or lose his cause).

381. When faults are pointed out in a witness tending to affect his veracity or character, that is part of the trial of the suit and not a separate procedding, but if further witnesses are allowed to be cited to prove the character attributed to him, then it would lead to examination of witnesses ad infinitum, as these latter witnesses again may be attacked by exmaining others and so on. Vyasa quoted in अपरार्क, व्यवहारमातृका and स्मृतिच. makes this clear अन्यैस्तु साक्षिभिः साध्ये दूषणे पूर्वसाक्षिणाम्। अनवस्था भवेद् दोषस्तेषामप्यन्यसंभवात्।। Compare sections 146 and 153 of the Indian Evidence Act.

384. We should understand 'dosam' after 'saksinah' and connect 'sphutam' with 'abhavayan'.

385. This verse primarily applies to the parties, but the same rule holds good in the case of witnesses. 'Prativadi' here stands for both sides (each of which opposes the other). Compare Manu VIII.25-26 for almost the same ideas and words. These signs do not decide the matter, but they raise great suspicion and they make the judge and sabhyas scan the whole evidence very carefully.

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386. Shaking (of the body), perspiration, languishing (of the body), dryness of lips, licking (of the corners of the lips with the tongue), scratching the ground (with the toes), restlessness (lit. leaving the place where one stands), looking sideways or upwards (towards the sky), change of voice- these the wise declare to be the signs of a false (party or witness).

387. Witnesses should give their deposition inside the hall of justice and not anywhere else; this is the rule as regards all oral evidence; but it is otherwise as regards immovable property.

388. Witnesses should depose in the presence of the plaintiff and the defendant and near the matter to be established (in the suit) and never behind the back (of the parties).

389. Depositions should be taken down near (lit.over) the matter (in dispute) and in some cases even in places other than these two; this is the rule in (disputes about) quadrupeds and about bipeds and immovable property.

390.In all judicial proceedings (lit.where proof has to be given) witnesses should be made to depose even in the absence of things that are to be weighed (like gold), that are to be counted (like coins) or that are to be measured (like corn), but not in other cases.

391. In the case of the killing of living beings, witnesses should be made to depose in the presence of (an image of) siva; but (this should be done) in the absence of any marks (of the animal killed or of killing); but when it is otherwise (i.e.when some mark exists) the witness should not be made to depose at all (in

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386. Compare Yaj.II.13-15 and Nar.p.90 v.193-196, Vi.VIII.18 for similar signs. The reading 'vaivarnyam' (losing colour paleness or darkness of face) is better and is supported by the text of Yaj.

387. In the case of immovable property, the evidence may be taken on the property itself.

389. The words 'tayorapi vina kvacit' are explained in one way by Sm.C.and Par.M.and in another way by V.M.and Vir.The former say, witnesses are to be examined in court and may be examined also on the immovable property in suit. These are two places (tayoh) for the examination of witnesses; but in rare cases (kvacit) depositions may be taken elsewhere as said in verse 391. According to V.M.and Vir. the word 'kvacit' is illustrated by the latter half i.e. in disputes about cattle &c or about slaves &c depositions may be taken near the subjects of disputes and 'tayoh' is taken by V.M.to refer to the parties.

390. When the matter to be secured by litigation is gold or coins or grain, witnesses were to depose in court even without these being in court.

391. As siva is the god of destruction it was probably thought that in the case of slaughter of human or other beings, depositions should be taken in a temple of Siva. If we read 'Sava-' as the Par.M.does, the verse can be more easily

the temple of siva).

392. The words of the witnesses when free from faults should be taken down as naturally by them; when the witnesses have stated (what they know) they should not be questioned by the king again and again.

393. Whatever the witnesses narrate naturally should be accepted as useful for deciding the legal proceeding; whatever they say otherwise than in this way is useless for the purpose of (finding out) the truth.

394-395. What ever was observed by witnesses in a group should be deposed to in the same way (i.e.simultaneously) but what was seen by each separately should be deposed to seperately. When a certain matter was known (perceived or experienced) by witnesses at different times, they should depose separetly and at different times. This is the view of Bhrgu.

396. In disputes about recovery of debts and the like which are of a permanent character, if witnesses depose to more or less (than what is alleged in the plaint), then the entire claim does not certainly succeed.

397. When witnesses depose only to a part of the matter alleged (in the plaint or reply) in charges of adultery, heinous crimes (sahasa) and theft, the whole of the matter that is alleged may be held proved.

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construed. It would mean witness should depose near the corpse, or in its absence near some mark (such as horn &c) of the animal killed. Here 'tadabhave' means 'Savabhave', but if we read, Siva, then 'tadabhave' cannot mean Sivabhave)as temples of Siva must have been found everywhere in Katyayana's day) and 'tat' there means 'saksyam' and 'abhave' is to be connected with 'cinhasya'. The Vir.(p.168) goes so far as to explain that when there is a mark then there is no need of deposition of witnesses. Vide my notes to V.M.p.75.

393.'Naturally' means without fear and the like.

394-395. It is noteworthy that earlier writers like Apararka ascribe these verse to Kat.while later ones ascribe them to Vasistha. Compare Gautama XIII.5 and Vide Vir.p.169 which notices Haradatta's explanation.

396-397. 'Of a permanent character' - This refers to civil disputes like recovery of debt, in which there is no urgency, while in crimes there is urgency. Verse 396 lays down that if witnesses are called for proving the whole of a claim and they depose to more or less than the claim, the whole is not established i.e. by the mere proof of a part, the whole claim will not be awarded, as there will be doubt in the court's mind as to the truth of the claim. He will then have to adduce other evidence to prove the claim. Compare Yaj.II.79, Nar.p.96v.234 and Br.p.303v.32 for the same proposition. Vide verse 219 above, which applies where the opponent totally denies every item of the claim and the plaintiff establishes some of the items claimed. Verse 473 applies where a son is called upon to pay his father's debts and he says he does not know. There he cannot be said to deny the whole

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398-399. Where (the statements of witnesses) are less or more (than what is affirmed by the parties), the depositions of witnesses should be omitted (from consideration); the witnesses in such a case are not liable to fine; he (witness) deserves to be fined if he does not depose (to what he knows). When the depositions of witnesses are in conflict as to the place, time, the amount of money the number, colour, the species, the form or shape and the age (as stated in the plaint or reply) the wise say that the depositions are (as good as) not given.

400-401. When several matters have been definitely asserted (in the plaint or reply) if the witnesses, when the time for deposing arrives, do not make a statement coinciding with the statement (in the plaint or reply) that testimony becomes no testimony. Where witnesses depose to matters either more or less (than those in the plaint or reply), that should he regarded as improper (testimony); this is the certain conclusion about (the testimony of) witnesses.

(Faults of witnesses and fines imposed on them).

402-403. If deposing to everything even when not asked or not replying to what is asked, witnesses should be arrested, censured and fined according to the (rules of) law. In the case of abuse (defamation or libel), and in case of deciet they (witnesses) should be made to pay a fine of three hundred (panas) and in disputes about (recovery of) debts and the like, they should be made to pay the amount of fine and also the debt (in dispute).

404. A witness who has not been appointed (as a witness at the time of the transaction in dispute), or who is not summoned (as a witness) or who is not

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claim and so the principle of verse 219 cannot apply. Vide verse 365 for 'sthirakarmasu' applied to 'debt and the like'. In 397 it is laid down that even when witnesses are cited to prove all facts stated in the complaint about certain heinous crimes and they depose to only some of them, the whole may be held proved.

398-399. This applies to civil disputes like recovery of debts, as in 396. For the fine for not giving evidence vide Yaj.II.76. For 399, compare similar provisions in Nar.p.96.v.233 and Br.393 v.33.

400-401. Verse 400 is the same as Narada, rnadana 232, and 401 is almost the same as Narada, rnadana 234. It would be better to read 'anuktam' in 401. As both these verses do not add to what is stated in 396,398 it is probable that Sar.ascribed them to Kat. through oversight. Kaut.says साक्षिणश्चेदाभियोगादूनं ब्रूयुरतिरिक्तस्याभियोक्ता बन्धं दद्यात् अतिरिक्तं वा ब्रयुस्तदतिरिक्तं राजा हरेत् (text p.176). Vy.Mat.(p.312) has a long note on verse 400 in which he refutes at length the views of Yogloka on this verse.

402-403. Compare Gautama XIII.6. अवचनेऽन्यथावचने च दोषिणः स्युः Yaj.II.77, Br.p.303 v.31 and Vi VIII.37. The Sm.C. notices that in v.403 they refers only to witnesses who do not reply to what is asked.

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pointed out (as a witness) should be fined, since he is a vile person, when he deposes saying 'this is true, that is false'.

405-406. If one who has witnessed a transaction would not depose as a witness, he would have to bear (i.e.pay) the debt (in dispute) and an equal amount of fine, but in disputes other than this (i.e. other than debts) he deserves to be fined three hundred. Witnesses who, having first said one thing, depose contrary to that should be fined, since they are full of deceiftul words.

407. (The king) should seize all the wealth of the man who through the greed of (winning) the cause cited false witnesses and should then banish him from the country.

408. When a matter (in dispute) has been established by the plaintiff by means of witnesses, if the defendant were to prove that matter to be otherwise by mere witnesses (than those for the plaintiff) or by witnesses of better family, then the witnesses first deposing become false.

409. When the means of proof are shown to be faultless according to the rules of law, then comes the (business of) testing of their statements (lit.sentences). The fixed rule is that that matter must be regarded as faultless which follows from faultless testimony.

410. Where a witness tells a falsehood, it would be found out in a week or two weeks or 46days (in the guise of) disease, fire or death of (near) relative

405.406. For 405 Compare Manu VIII.107 (which prescribes a fine of one-tenth of the debt in dispute), Yaj.II.76 (who also prescribes only one-tenth). Kaut.(p.177) cities the view of the Manavas 'कृतसाक्षिणो यमर्थमभूतं वा नाशयेयुस्तद्दशगुणं दण्डंदद्युरिति मानवाः' Here 'das'agunam' is probably a wrong paraphrase of 'das'abandham in Manu VIII.107.

407. Vide Manu VIII.123 which according to some interpretations prescribes the drastic punishment of death or cutting off of the tongue for persistently engaging in false claims and banishment to brahmanas; and Mit.on Yaj.II.81 (which gives various interpretations of Manu VIII.123.

408. 'Witnesses of better family' - this is only illustrative and means witnesses who are of better character or standing or more meriterious Vide Yaj.II.80. The Mit.on Yaj.II.80 does not accept this interpretation and says that the texts of Yaj. and Kat. apply to a case where the plaintiff cities a number of witnesses some of whom are near and some far off and examines only those who are near and is about to fail on their evidence, when he should be allowed to examine better witnesses from far off, if already named.

409. 'Kriya' means the 'pramanas viz. documents, witnesses, possession, 'Suddhi' means 'removing or absence of the several results as to writings and witnesses laid down in the sastra. This verse must be connected with verse 340 above, which enjoins upon the judge the duty of scrutinizing the statements of witnesses.

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(befalling a false witness) according to the difference in the material (in dispute) or the caste (of the witness).

(ordeals and their assignment according to the several titles of law).

411. No one should appoint the plaintiff (or complainant) to the (undergoing of) ordeals. Those who are experts in ordeals should ofter ordeals to the defendant (or accused).

412-413. The ordeals of balance and others should be appointed in the case of those who are suspected by kings (of treason, sedition &c) for proving the purity of their intentions. In such cases no undertaking to pay fine should be laid down (as a condition before ordeal is offered). The ordeals of balance and others should be appointed in the case of those who are labouring under scandals

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410. This verse means that the king should wait for a week or two weeks &c after finding a witness to be false to see if any of the calamities mentioned befall him and then fine him. Compare Manu VIII.108 (for waiting for a week) and VIII.120-121 (for fines for perjury). 'Jati' may also mean 'the species of the thing in dispute'. Sar (p.150) quotes Visnu 'शतनाशे षट्चत्वारिंशद्दिवसप्रतीक्षणम् द्विशतनाशेत्रिसप्ताहप्रतीक्षणम्। पञ्चशतनाशे द्विसप्ताहप्रतीक्षणम्। सहस्रनाशे सप्ताहप्रतीक्षणम्॥१॥

411. This states the general rule about offering ordeals. Vide Nar.p.101.v.257 and Yaj.II.95-96, which say that when the plaintiff files his action with the undertaking to pay a fine or undergo bodily punishment if he were defeated, ordeals were to be offered to defendant or there is an option, i.e. by mutal agreement any one of the parties may undergo ordeal. The Chandogya Upanisad (Vi.16) contains one of the oldest and clearest references to ordeals. Among the older Dharmasutras Apastamba (II.11.29.6) refers in general terms to divine method of proof but gives no details. Manu only (VIII.109-116) refers to administration of oaths and alludes to ordeals of fire and water (VIII.174). Vi.IX-XIV speaks of five ordeals (of balance, fire, water, poison and kosa). Yaj II.95 speakes of the same five but seems to have known of phala also (II.99). Narada (rnadana verse 251-348) adds the ordeals of 'tamdulabhaksana' and 'taptamasa' to the five of Yaj. and Vi. Brhaspati (Br.p.315 vv.4-5) and Pitamaha speak of nine (adding 'phala' and 'dharmaja' to the seven of Narada). Pitamaha gave the most elaborate treatment and about 200 verses of his on ordeals are quoted in the digests. Kat. distinctly names seven but seems to have known more (vv.460-461).

412-413. Siras is explained as the undertaking to pay a fine if one were defeated, since 'fine' is the fourth (and so last and most important part) pada of Vyavahara depending on victory or defeat and therefore is called 'siras' or 'sirsaka'. In these cases mentioned in 412-413 there is no necessity to insist on somebody undertaking to pay a fine or under going corporal punishment. The important matter is to clear one's character and so the man may at once offer to undergo an ordeal when charged with any one of them.

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among the people and who are suspected of association with dasyus (robbers). In such case there is no undertaking to pay a fine (as a condition before ordeal is offered). (This is the view of) Bhrgu.

414. In charges based on suspicion no undertaking to pay fine or undergo corporal punishment should ever be laid down (as a condition) in offering the ordeal of 'kosa'. Ordeals should be offered to the servants of the king without (the requirement of) an undartaking (to pay fine &c).

415. The ordeal of 'kosa' alone should be offered in cases of securing confidence when there is suspicion, always at the time of partition among members of the same family and when several persons do one act in a body.

416. Where there is a denial of a gift (lit. of a thing given), (the judge) should (first) find out the standard value of the thing in gold and should then settle which, if any, ordeal was to be offered. In the case of theft and heinous crimes (sahasa) ordeal should be offered (to the accused) even when the subject (of the crime) is of slight value.

417. Understanding the price of all things (that are the subject of dispute), (the judge) should find out (their equivalent in) gold and then he should appoint the (proper) ordeal in accordance with the amount of gold (in dispute).

418-419. After ascertaining (for the value of the subject matter in dispute) the number of suvarnas it is declared that in the case of denial (by the accused or defendant) of a hundred (suvarnas) poison (is the proper ordeal), for denial of eighty suvaruas, (the judge) should offer fire. For denial of sixty (ordeal of) water should be offered, and for forty (ordeal of) balance, for the denial of twenty or ten (suvarnas) drinking of sacred water (kosa) is prescribed.

420-421. In denial of more (suvarnas) than five and up to one fourth of that the ordeal of tandula, but in the denial of one fourth of the last (the person

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414. 'Kosa' ordeal is always meant only for proving 'cittasuddhi,' so it is to be undergone without an undertaking when one is simply suspected. In plaints of a serious character, even the ordeal of kosa cannot be offered without an undertaking. Vide Yaj.II.95. For latter half, compare Nar.p.105 v.270.

415. 'Kriyasamuhakartrtve' may also mean 'where there are several persons on whom the burden of proof lies in various ways. Vir.p.229 explains as above. 'kosa' ordeal consists in drinking three handfuls of water used in bathing the fierce gods like Durga, the sun at the time of worship. Vide Yaj.II.112, Nar.p.116.v.329.

417. Compare vi.IX.4. सर्वेष्वेवार्थजातेषु मूल्यं कनकं कल्पयेत् ।

418-419. The Mit.says that Yaj.II.99 (that neither the ordeal of ploughshare nor poison nor balance was to be offered up to a thousand) refers to a thousand copper panas. Compare Br.p.316 vv.9-12. For suvarna vide notes on verses 493-494 below.

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should touch) the head of his son and the like; in denial of one fourth of that, it is declared that ordinary modes of proof (viz.oaths) should be employed. A king thus deciding (disputes) does not fall away from dharma (righteousness) and artha.

(The offering of ordeals according to the castes and avocations of the plaintiff and defendant).

422. (The king) should appoint the ordeal of fire for a Ksatriya, balance for a Brahmana and water for a vaisya or he may appoint any ordeal for all castes but the ordeal of poison is to be eschewed in the case of a brahmana.

423. (The king) should offer (ordeal) to the members of the three higher castes who are cowherds, traders, artisans, bards, servants and usurers as if they were sudras.

424. He should not offer ordeal of fire to blacksmiths and water to those who ply watercraft, and never poison to those who are experts in mantras (incantations) and yoga practices; he should not appoint tandulas to him who is observaing a vow (such as subsisting on milk alone) and to one suffering from mouth-disease.

425. He should omit fire (ordeal) in the case of those who are lepers and water in the case of those who suffer from difficulty in breathing and cough; he should always omit poison in the case of those who suffer from (excess of) bile and phlegm.

426. The ordeal of kosa (sacred water) should not be offered by the wise to drunkards and persons addicted to women, to gamblers and those who are irreligious in their life.

427-430. A king bent upon dharma should not prescribe ordeals for those who are charged with killing their mother, father, a person of the three higher castes, a teacher, a child, woman and king, those who are guilty of the grave sins and particularly those who are irreligious, those who wear (or subsist by means of) peculiar sect-marks, those who are great rogues, those who are

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420-421.'More than five'-means six and upwards; 1/4 of six and over would be 11/2 and more. 'should touch the head of his son'. This was a kind of special oath. Compare Manu VIII.114 and Nar.p.100.vv.247-250.The V.M.(text.p.46) quotes a verse of Narada not found in Dr. Jolly's edition स्पृशेच्छिरांसि पुत्राणां दाराणां सुहृदां तथा । अभियोगेषु सर्वेषु कोशपानमथापि वा।। which is similar to Manu VIII.114.The three goals of life are dharma, artha, and kama. Vide kaut.I.7. philosophers add a fourth 'moksa'.

422. Compare Nar.p.117.vv.334-335.

424. Compare Vi.IX.25 and Nar.p.101.v.255.

425. Compare Vi.IX.29 and Nar.p.101.v.255.

426. Compare Nar.p.117 v.332.

427-430. For the five great sins vide Manu XI.54. What is meant is that these persons should not be called upon personally to undergo an ordeal and it is meant that ordeal should not be employed in their cases.

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experts in mantras and yoga practices, those who are the progeny of mixed unions those who repeatedly engage in sin and in charges of the above description and in all other censurable matters. The king should offer ordeal (in the case of these men) to good men appointed by these (to undergo an ordeal); where good men do not desire (to undergo ordeal for them), the king should test their innocence by (offering ordeal) to their own men (i.e.their relatives and friends).

431. Ordeal should not be offered (to be performed in person) to those who are guilty of sins and specially to those who are irreligious and to those who are addicted to repeated commission of sins.

432. In these disputes (the king) should vigilantly make (the persons charged) undergo the ordeals through good men (though) forbidden (to them in their own person); he should not leave the person charged of sin (without testing his guilt or otherwise by ordeals); (this is the view of) Manu.

433. But in the case of the untouchables, the lowest castes, slaves, mlecchas and those who are the offsprings of mixed unions in the reverse order of castes when guilty of sins the determination (by the above named ordeals) should not be done by the king. He should indicate such ordeals as are well known among them in case of doubt. (about their guilt).

(The proper place of ordeals)

434-435. (The king) should employ (ordeals) in a well-known temple in the case of men who are accused of the grave sins and near the royal gate in the case of those who engage in treason. Ordeal should be offered in a public square where four roads meet to those who are the progeny of mixed unions in the reverse order of castes; the wise declare that in cases other than these ordeals should be offered inside the sabha (hall of justice).

436. He (the king) should appoint whatever ordeal is proper, when the

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431. This practically repeats the latter half of 427 and the last quarter of 428.

433. When a male of a lower caste enters into union with a woman of a higher caste than his own, it is said to be a pratiloma union. The Divyatattva (p.579) of Raghunandana explains that the ordeals well-known among these people are those of the snake in the jar and the like. This explanation is copied by the vir.p.238 and the V.M.p.49. The Sm.C.explains that this rule is to be followed when relatives appointed by them for undergoing ordeals cannot be had.

434-435. The Par.M.explains 'Indrasthana' (lit.place of Indra) as implying and temple of a well-known deity; while the Divyatattva explains it as 'place where the banner of Indra was raised' and the Vir.p.241 follows this. The Indradhvaja was a festival in honour of Indra in the bright half of Bhadrapada from the 8th to the 12th (11th being the principle day). Vide the Brhat-samhita of Varahamihira chap.43.Compare Nar.p.104.v.265 which says that the balance was to be planted near the royal gate or near a temple or where four roads meet.

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time or place is in conflict (is not appropriate); he should make another (a person appointed by the accused) undergo the ordeal; this is the rule when the opposite is the case (i.e. when the accused cannot undergo ordeal in person).

437.When (ordeals) are administered at an improper time or place and when they are performed outside human habitation (i.e. in a lonely place). they always fail as to the matters in hand; there is no doubt about this.

438. If the means (i.e. the ordeal employed) fails, then the matter to be decided should again be investigated (by other ordeal); even when ordeals are offered by fools, greedy persons or by others who are vitiated (by some defect or other) and undergone they should be ignored by the king and he should offer them again in accordance with what is said above.

439. Therefore an ordeal should be administered according to the rules prescribed by persons expert (in those rules). If an ordeal is administered against the rules, it is not capable of establishing that (matter in hand).

440. When the scales or the balance or the rope breaks and when there is a doubt as to whether (a man's) innocence has been established, (the king) should again test the man (by ordeal).

(The procedure of fire ordeal)

441. If the accused (undergoing the fire ordeal) misses his footing or is burnt else where than in the proper place, the gods declare that it is no burning, the king should again offer him (fire ordeal).

(The procedure of the water ordeal)

442-445. For establishing innocence (by water ordeal) he should make ready arrows the points of which are not made of iron and which are made of pieces of bamboo and the archer (lit.the person throwing) should throw (the arrows) with great force. When (the arrow) is discharged (the accused) should

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436.Vir.p.238 and V.M.p.49 reads 'savirodhe' (when the time and place do not conflict). This seems to be better.

437.The idea is that they cease to be decisive of the matters in dispute when so administered. Dr.Jolly (Nar.p.250.v.15) renders constitute a deviation from the proper course of a law suit, but this is not accurate.

439. Br.p.317.v.18 is almost the same verse.

440. Compare Vi.X.13.

441. The proper place viz.the hands in the fire ordeal (and not other parts of the body).

442-445. Vide my notes to V.M.p.108 for the whole process of the water ordeal. In 444 read 'siromatram'. Vide Nar.pp.111-113 verses 305-312 for a complete description of this ordeal. He should again dive into the water' i.e.he should under go the ordeal again. We should read in 445 with the Divyatattva (p.601) 'dastah' and 'damsacihna.'

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dive (into water) and simultaneously with the diving (into water) and simultaneously with the diving (another person) runs (to the place where the arrow fell); when he reaches that place, (another man) starts back (from the place to the place when the arrow was shot) and another man stands in water (whose thighs the man undergoing the ordeal and diving holds underneath the water). If only the head (of the accused) diving in water be seen (by the person who returns to the place whence the arrow was shot) and neither the ears, nor the nose, then he (the king) should declare him to be innocent. If a man after diving again rises up (over the water), being bitten by an (aquatic animal), he should again dive into the water when the marks of the bite have been shown.

(Procedure of the ordeal of poison)

446. That is known to be the sargina poison which resembles the horns of a goat, is dark and yellow and produced from the peaks (of mountains) and looks like ginger when crushed.

447. That (poison) makes the blood dark and hard (clotted) in a moment. In this way those who are expert in ordeals should know (this) ordeal.

448-449. That should be known as vatsanabhaka, which is yellow and like the navel of a calf and appears like mother pearl and conch when crushed; it is known for certain from its colour. It should be at once made pure by adding to it honey and milk. Those who carry out (the dictates of) dharma declare the out ward signs (of poison) in this way.

450. One should give poison (as an ordeal) to a person in the forenoon and in a cool place. The poison should be mixed with 30 times of ghee and should be pounded into fine powder.

451. He should give to the person to be tested (by poison ordeal) poison less by one-eighth from the 20th part of the sixth part of a pala of poison and it should be mixed with ghee.

(The procedure of the ordeal of sacred libation)

446.It is better to read 'supitam' and 'sarnginam', Nar.p.115.v.322) speaks of Sarnga poison from the Himalayas as the poison to be given in ordeal and Kat.appears to be explaining it. Dr.Jolly translates 'sarnga' as 'from sringa plant, which is doubtful. Visnu XIII.2-3 has विषाण्यदेयानि सर्वाणि। ऋते हिमाचलोद्भावाच्छाङ्गात्। and Yaj.II.111, एवमुक्त्वा विषं शार्ङ्गं भक्ष्येद्धिमशैलजम्। That is said to be Srngaka poison which being tied to a cow's horn makes her milk blood-red.

451.Pala is equal to 960 yavas. Vide Manu VIII.134-135. 1/20 of 1/6 of a pala is equal to 8 yavas and when one-eighth is deducted, it is seven. So seven yavas of poison were to be given as a general rule. This verse is the same of Nar.p.115.v.323.verse 324 of Nar.says that seven or eight yavas may be given in winter, only five in summer and six in the rainy season.

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452. In the case of slight wrongs (or crimes) the person charged should be made to drink the water of the weapons of the deities after bathing them (in worship); if he undergoes change he should be declared to be guilty and should be punished, but if otherwise he (should be declared to be) innocent.

(The procedure of the ordeal of tandulas)

453. In the case of the ordeal of the water of the bath of deities and in the ordeal of chewing rice, the accused (is declared to be) innocent if what he spits out is pure (not streaked with blood); if otherwise he is guilty and should be punished.

454. (The king or judge) should make the plaintiff (or complainant) who attacks (the defendant) with pride pay a fine and also the subject matter of dispute, when the defendant is found to be innocent by means of the kosa ordeal. A religious king should honour the person who is (found to be) innocent by means of an ordeal.

455. Where (in an ordeal of tandula) blood is seen (i.e. issues forth from the mouth) or the hair on the chin sink (ar) shattered or fall off) and the whole body trembles, (the judge should declare the man to be guilty.

456-457. (The judge) should sedulously make the accused pay, after three weeks, in case of the befalling of fateful calamities (on the defendant undergoing the kosa or tandula ordeal), a fine and the subject of dispute. If any one of the following befall him alone and not all people (in the neighbourhood)

452.If he undergoes changes - i.e. if some calamity befalls him (as indicated in vv.410 and 457). Nar.p.116.v.330.Br.p.311.v.24, vi.XIV.4-5 say that if he meets with a calamity in a week or fortnight it shall be regarded as proof of his guilt. Compare for the kosa ordeal, Yaj.II.112, Nar.p.116.v.329, Br.p.318 v.23 (whatever deity the accused happens to be devoted, let the judge bathe the weapon of that deity in water and give him to drink three handfuls of water).

453.It is better to read, as V.M.does, 'digdha' for 'divye'. The Tandula ordeal was administered in case of theft only and in it grains of rice were placed in an earthen vessel in the sight of the image of the sun and after pouring over them water in which an image of the sun had been bathed and keeping them in that way for the night the judge gave the water to the accused in the morning. Vide Nar.p.118.vv.338-342 and Br.p.318.v.25.

455. This is Nar.p.119.v.342 where we read दन्तजालं च शीर्यते 'whose tooth-flesh is shattered' for हनु etc.

456-457. 'Daivavisamvada' it means the non-correspondence shown by fate. Verse 458 enumerates some of the strokes of fate from which one was to judge. Compare Nar.p.116.v.330. If many people suffer an epidemic (including the person under going an ordeal), that no sign for the inference of guilt or defeat and the disease must be serious and not slight.

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viz, disease, fire, the death of a near relative (like son or wife), then he should be made to pay the fine and also the debt (i.e.subject of dispute).

458. The diseases brought on men by (the wrath of) fate are tuberculosis, diarrhoea, boils, pain in the palate and bones, eye disease, throat disease and so also seizure (by evil spirits), headache, fracture of the arms.

459-461. (The king) should cause fifty (panas) to be paid by the man who is found innocent (by ordeal) and one who is found guilty (by ordeal) is liable to pay a fine. In the ordeals of poison, water, fire, balance, sacred libation rice grains and in the ordeal of taptamasa (the judge) should prescribe a (special) fine (for the defeated party) of a thousand panas, six hundred, five hundred, four hundred, three hundred, two hundred or one hundred respectively and a lesser fine in the case of lesser ordeals (than these).

(Procedure of Oaths).

462. Where some (religious) rite is enjoined, but there is no express mention of the limb of the person doing (with which it is to be done), there the right hand is to be understood as meant for carrying out to the end the rites (enjoined).

463. He on whom no terrible calamity due to king or fate befalls up to the fourteenth day should be regarded as pure by taking oaths.

(Consideration of the transactions entered into by those who are lunatics or dependent and the like)

464. What is gifted or done by one intoxicated or one who is a lunatic or by one who had a different intention, that does not at all attain validity.

465. The master may cancel a transaction entered into by one who is

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459-461.The fifty panas that the innocent man has to pay is not a fine but is in the nature of return (modern court fee) to the state for the services of the judge etc. Compare Vi. VI.21 for successful plaintiff paying 1/20 (to the king). Verses 460-461 specify the special fine to be paid on account of defeat by the several ordeals in addition to the fine laid down for the defeated party by Manu.VIII.59 and Yaj.II.11. Vide Mit.on Yaj.II.112. For taptamasa vide Nar.p.119 vv.343-348, Br.p.318 v.26 and V.M.pp.83-84 (text) which last gives two varieties of it.

462. This occurs in the Katyayanasmrti (I.8on acara published by Jivananda in his collection vol.I. This means that if a person was to touch the head of his son or wife as a special oath, he was to do so with the right hand.

463. This is practically the same as Yaj.II.113. compare Manu VIII.115. For the various forms of oaths vide Manu VIII.113-114, Nar.p.100 v.248.

464. Vide verse 271 above. 'who had a different intention'. This means that both parties to a transaction must take it in the same sense. If the executant thought that he was executing one transaction (e.g.a mortgagee) and what was actually written was a different one (e.g.a sale), then he could avoid. Compare Kaut.III.1(p.148) तत्रापि क्रुद्धेना तेन मत्तेनोन्मत्तेनोपगृहीतेन वा कृता व्यवहारा न सिध्येयुः।

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dependant (on him). The other party cannot file a suit against the master (on such a transaction) except as regards transactions entered into by those who were under a fear or those who were under a fear or those who were mad.

466. The father is independant (is his own master), but (the son) whose father is living the brother (whose elder brother is living), the brother's son, a younger member who has not partitioned his share of the family wealth, a slave and a menial (are dependant).

467-471. The gift, mortgage and sale of fields, houses and slaves entered into by those who are dependent do not attain validity, if they are not approved of (by those on whom they are dependent). All these (dependent persons) have authority for the sale and purchase of marketable goods, if they are supported (by their masters) when they enter into the transactions. In the same way the (younger) brother, the brother's son, or the son (have authority for the sale &c),

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465. Transaction entered into by those who are coerced or those who are mad can be annulled only by the king; hence they are excepted but transactions, entered into by those who are declared to be asvatantra on behalf of their masters, can be repudiated by the master himself vide Nar.p.50-51, vv.33-34 for an enumeration of those who are asvatantra.

466. Read 'pitasvatantrah' and understand 'asvatantrah' after 'pitrrna' Compare Nar.p.29.vv.29-31 (for son, slave and younger brother) and Kaut.III.1(p.148) मिथः समवाये चोपह्वरकृताः सिध्येयुः। अतोन्यथा न सिध्येयुः। अपाश्रयवद्भिश्च कृताः पितृमता पुत्रेण मित्रा पुत्रवता निष्कुलेनु भ्रात्रा कनिष्ठेनाविभक्ताशेन &c.

467-471. When they are supported etc, i.e. when they enter into the transactions with the permission or approval of their masters. For the propositions in 467-469 compare Nar.pp.49-50 vv.26-27 and 29 and for 470 compare Brhaspati यः स्वामिना नियुक्तस्तु धनायव्ययपालने। कुसीदकृषिवाणिज्ये निसृष्टार्थस्तु सः स्मृतः।। प्रमाणं तत्कृतं सर्वं लाभालाभव्ययोदयम्। स्वदेशे वा विदेशे वा स्वामी तं न विसंवदेत्।। quoted in स्मृतिच.III.p.308. Vide.Br.p.298 vv.7-8. This shows that Kat. uses the very word निसृष्टार्थ used by बृहस्पति. As to 471 several points have to be noted. Ancient writers appear to have held that a father could even sell his son. The Nirukta (III.4) refers to the view of some who relying on the story of sunahsepa in the Aitareyabrahmana held that the father could gift, sell or abandon his son. The Vasisthadharmasutra (XV.2) says that the parents have power to give, sell or abandon their son. Manu VIII.416 and the Mahabharata (Udyoga 33.64) say that all wealth acquired by the son, the wife and the slave belongs to him to whom they belong. The Mit.commenting on Yaj.II.175 and the Vir.p.567 holds that a man has ownership over his wife and children. But it is refreshing to find that Kat.holds the opposite view and that the v.m.(text.p.92) distinctly states that there is no ownership over the wife or children. Kaut.(III.13p.181) notes that it is no crime for mlecchas to sell or hypothecate their children, but the Aryas cannot do so.

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of fields and the rest, if they are appointed (authorised) to enter into these transactions by their elders when going (abroad). Whoever is appointed to do a certain act is master as regards that matter and his master has no power to undo the transaction entered into by him. The dependence (on the father or husband) of the son or of the wife (consists only) in his father's or husband's) right to control them (or their actions), but the father has no power over the son so far as selling or gifting him is concerned.

(Decision of the suit)

472. Purification is declared by those who know the essence of sastras to be the remedy (for wrong - doing); it is two-fold, viz, prayascitta (expiatory rites) and punishment.

473. In claims containing various items, the creditor (or plaintiff) secures (a decree for) as much property as he establishes (to be his) by means of witnesses.

474. Where the defendant, after having totally denied (the whole claim in the reply), has to admit even a small part before (the court). He should be made to pay the whole. This is the view of Brhaspati.

475. In this way (the king), occupying the seat of justice, should decide the causes with the advices or help of brahmanas in the presence of the litigants and not otherwise.

476. The king, after having himself looked into the judicial proceedings or after learning about them from, the judge, should give a document of victory (to the successful party) for the purpose of information (to all).

(Rules about punishment)

477-478. The king should make a brahmana return (a debt due) to the creditor by conciliatory words, make others return a debt according to the usage of the country and should make bad people repay (their debt) by means of physical

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472. We must read 'dandasea'.

473. According to the Sm.C. this applies where the opponent is not shown to be very wicked, while according to the Mit. (on Yaj.II.20) this applies to a case where a son when called upon to pay his father's debt replies that he does not know or that he was not then present or born. Vide notes on 396 above.

474. If we read 'mithyalpamapi' etc, the meaning would be having denied everything in the reply of denial, if he admits even a little. Compare Vi.VI.22.

475. Compare Manu VIII.1-2, Yaj.II.1.

476. Vide vv.259-265 above for pascatkara and jayapatra. Compare Br.p.298 vv.3-4. Vide Journal of Bihar and Orissa Research Society vol.VII.p.117 for a jayapatra dated 928 A.D.

477-478. Manu VIII.49 says that a creditor was to recover his just debts in five ways, viz, dharma (conciliatory but truthful words), by vyavahara (by suit), chala (trick viz. bringing ornaments etc. from debtor under the pretext of a festival),

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pain (i.e.imprisonment &c). (The king) should make a coparcener or friend (of the successful party) pay by means of a ruse and also traders, husbandmen, and artisans. This is what Bhrgu declared.

479-480. On knowing (the debtor) to be unable to return the debt, (the king) should make him over (to the creditor) and make him work. If he be unable to work, he should be sent to jail except in the case of brahmanas. He should make husbandmen, ksatriyas, vaisyas and sudras repay (a debt) by making them work.

481. Punishment is not at all prescribed (by sacred texts) for the preceptor, the father, the mother, and also the relatives when these are guilty of offences.

482. Where an offence was committed when life was in danger, there

acarita (fasting at his door) and by force (i.e. putting fetters on him). When a creditor employed these means to recover a debt that was admitted he was not to be found fault with by the king (vide Yaj.II.40), and Manu.VIII.50; but if the debtor denied the debt, the only remedy was a suit. Vide Br.p.330 vv.55-58 for explanation of the words dharma, chala, acarita and bala. Santva stands for the remedy dharma, sampidya for acarita and bala.

479-480. Compare Manu.VIII.177 and IX. 229 and Yaj.II.43 for making the debtor (who is not a brahmana) work. Punishment was either physical (from imprisonment to death) or monetary (vide Nar.p.231 vv.53-51). A brahmana was not to be subjected to corporal punishment, according to Manu.VIII.124 and Gutama XII.43. The punishments for a brahmana were according to Gautama (XII.44) preventing him from doing the same thing, depriving him of all wealth, taking sureties from him, proclaiming him as a thief in the town or city, banishing him, putting on him the marks indicating his guilt (vide Manu.IX.237). The Sm.C. (III.p.292) relying on Manu IX.236 and other dicta says that a brahmana could be imprisoned but he could not be subjected to any corportal punishment such as beating, cutting off the hand for theft etc. Manu VIII.379 says that tonsuring the head of a brahmana for a crime is equal to the sentence of death. Apastamba Dh.s.II.10.27. 16-17 lays down that a brahmana guilty of murder, theft, forcible seizure of another's land was to have his eyes covered over with cloth for his life (so that he could not see anything). Though the brahmana was free of corporal punishment, owing to the policy of the state in ancient India, he could be imprisoned, banished from the realm or could be deprived of the use of sight, Even in modern times state policy prevents the arrest of imprisonment of an agriculturist in the Bombay Presidency in execution of a degree for money; vide see. 21 of the Deccan Agriculturists Relief Act, XVII of 1879.

481. Manu VIII.199 and Yaj.I.367 say that punishment is fourfold, viz, saying 'fie on you', severe or condemnation in words, fine, corporal punishment. Br.p.387

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should be no punishment at all; this is the dharma (the rule of law) declared by Bhrgu.

483. (The king) should not at all award death sentence to a brahmana even though he may be guilty of any offence whatever; (the king) should banish him from the kingdom with all his wealth and without any bodily injury to him.

484. When (any person) from among the four varnas does not undergo prayascitta (expiation for offences committed) the king should prescribe (for him) proper punishment consisting of fine or corporal injury.

485. If ksatriyas or brahmanas are guilty of an offence for which a sudra is liable to be punished according to law, then they would be liable to double and double (of the punishment for the sudra).

486. The king should punish a sudra, who forsakes the order of sannyasins (after having entered it) and who intently practises japa (silent muttering of prayers) and homa, with death (or corporal punishment) or he should be punished with double the fine.

487. In the case of all offences, women should pay half of the fine in

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v.7 lays down which of these four is appropriate to whom and p.387 vv.5-6 say that admonition (with the word 'fie') is appropriate to light offences, reproof to purvasahasa, fine to middling sahasas and imprisonment to treason &c. The verse of Kat.is meant to forbid punishment by way of fine and corporal punishment only in the case of preceptors &c Compare Sankha अदण्ड्यौ मातापितरौ स्नातकपुरोहितौ परिव्राजकवान प्रस्थौ जन्मकर्मश्रुति शीलशौचाचारवन्तश्च (quoted in Sm.C.III.p.296); and गौ.ध.सूत्र VIII.12-13 षड्भिःपरिहार्यो राज्ञा। अवध्यश्चाबन्ध्यश्चादण्ड्यश्चा बहिष्कार्यश्चापरिवाद्यश्चा-परिहार्यश्चेति।। Compare the principle underlying see. 562 of the Cri.Pro.Code.Yaj.I.358 says that a king has to punish his own son, or father-in law &c.

482. This enunciates the right of private defence of body. Compare see.97 and 99 of the Indian Penal Code.

483. Compare Gautama XII.43 न शारीरो ब्राह्मणदण्डः and Manu IX.241. Vide.Br.p.388 v.11.

484. The Par.M.explains that if the offending brahmana does not submit to being banished, then he has to be punished just as a ksatriya would be viz, with fine or imprisonment. Compare आप.ध.सू. II.5.10. 17-18 स ब्राह्मणान्नियुञ्जयात्। बलिविशेषेण वधदास्यवर्जे नियमैरुपशोषयेत्।। also गौतम XII.44.

485. The idea seems to be that a ksatriya should be awarded double the punishment which a sudra would be awarded for the same offence and a brahmana four times as much.

486. It appears that we should read 'pravrajyavasthitam for 'sitam'. A sudra was to be punished if he entered the fourth order (asrama). This is the way in which the Vir.p.724 under stands this verse. Note the well-known story of Sambuka (Ramayana, Uttarakanda 74-76).

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money which is prescribed for a male; when (the punishment for an offence) is death in the case of males, (the punishment for women would be) cutting off a limb.

488. Women who are not independant should not be arrested; it is the male (on whom they are dependent) who should be regarded as the offender (when they go wrong); they (the women) should be punished by their lord (i.e. the person on whom they depend), but the king should take away (for punishment) the male.

489. Even if a women whose lord has gone on a journey be consigned to jail, she should be kept in confinement only till her lord returns.

490. Whatever fine is carefully prescribed for an offence (in the smrti texts) it should be understood that it is to be in karasapanas or their equivalent (to be paid) to the king.

491. Where fine of one fourth of masa or one half of a masa is prescribed (and then subsequently in the same context) there is no express mention of masa, in such cases one masa should be prescribed as the fine.

492. when the punishment (or fine) is declared to be in masas, there it should be understood that they are to be of silver and where it is declared in krsnalas, there also the same conclusion about the fines declared is to be understood.

493-494. A masa is to be understood as the twentieth part of a karsapana; and a kakani is equal to the fourth part of a masa and of a pana. In the land of the five rivers this (the following) nomenclature is in current use. A karsapana is to be understood as Andika four karsapanas as equal to one dhanaka, 12 dhanakas as

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491. This verse, as it stands, is not clear. The reading of Kulluka is clear and means that a masa must be held to be golden where the metal is not specified. Saras.p.150 notices that according to Vijnanesvara the fine of a thousand means a fine of copper panas while according to Bharuci it means a fine a thousand golden masas and that in this matter the usages of countries should be followed. 492-493. According to Manu.VIII.132-134 and Yaj.I.362-363 eight trasarenus (motes in sun-beam) are equal to liksa, 3 liksas=rajasarsapa, 3 rajasarsapas = one gaurasarsapa, 6 guarasarsapas = one middling yava, three yavas = one krsnala, five krsnalas=one masa, and 16 masas=one suvarna, four suvarnas=one pala. According to Yaj, four or five suvarnas make one pala, 4 karsas are equal to one pala and copper equal to karsa in weight is called pana or karsapana. A pala therefore was equal to 64 or 80 masas and if we take a pala as equal to 80 masas, then a karsa, which was 1/4 of pala would be equal to 20 masas and this is what Kat, says in the first half of 493. In the latter half of 493 Kat. seems to follow another nomenclature. Haradatta on Gautama XII.19 (पञ्च माषा गवि) quotes a verse of Usanas. माषो विंशतिभागस्तु ज्ञेयः कार्षापणस्य हि।। काकिणी तु चतुर्थांशो माषस्यैव प्रकीर्तितः।।. According to Bhaskaracarya's Lilavati (verse two) twenty varatakas are equal to one kakini and 4 kakinis equal to one pana.

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equal to one suvarna which is also called dinara and citraka.

(review of judgment)

495. Where a certain matter (or side) is determined by the sabhyas themselves as true though it be really untrue, it is said to be tirita, that matter is said to be anusista which is declared (as true) on the testimony of witnesses.

496. If a party be not satisfied with the decision (of his claim) even though given by the family and other tribunals, the king should reconsider that decision and should upset what was wrongly decided.

(Discourse on interest in recovery of debts)

497. (A money-lender) should never hand over a loan to (dependant) women, to slaves, and to minors. The lender cannot recover back that wealth which he gives to these.

498. That rate of interest which the debtor promised in addition (to the rate allowed by sastra) and which was promised in times of difficulty must always be given, though it is of the karita kind; but interest of the karita kind incurred in other circumstances should never be paid.

499. Where the debtor has to pay interest to the very end and where he

494. The latter two halves are almost the same as Br.p.317 v.15 and both 493 and 494 almost the same as Narada (text appendix p.299 verses 58-60). Dr. Pran Nath devotes one chapter (III) to these terms in his 'Economic condition in anceint India and traces dhanaka to the persian 'Danaq'.

495. The words 'tirita' and 'anusista' occur in Manu.IX. 233, where it is laid down that what is tirita and anussita should not be overturned by the king and reviewed, but should be upheld. Kat. explains these words in his own way. Kulluka explains them as 'decided according to the rules of sastra' and taken so far as to recovor the fine from the defeated party' respectively. The verse of Manu, even as interpreted by Kulluka, forbids review of judgment on the ground that a litigation was fought out by women &c. or forbids a review solely at the king's pleasure. But where the sabhyas are clearly wrong or where witnesses have borne false testimony a review was allowed. Narada also uses the same words (Nar.p.22 v.65) and allowed a party to make an application for review if he agreed to pay double the fine. Vide.Yaj.II.306 and verses 294-295 above.

496. Vide Yaj.II.305 for a similar provision. Verse 82 above sets out various grades of tribunals.

498. Interest is either krta (agreed upon between the debtor and creditor) and akrita (not agreed). The first is of six kinds कायिका, कालिका, चक्रवृद्धि, कारिता,शिखावृद्धि and भोगलाभ. Vide Br.p.321 vv.5-11. Yaj.II.37 laid down that interest was to be 1/80th of the principal per month or 2,3,4 or 5 percent per month according to the order of castes. If mere was promised by the debtor himself than this, he had to pay it. Vide.Yaj.II.38. Manu VIII.153 mentions the first four out of the above six, and so does Nar.p.66 vv.102-104. Gautama XII.31-32 mentions six kinds (five being the same as above and the 6th being called आधिभोग). Kat.refers to both bhogalabha and adhibhoga.

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pays it every time (i.e.every day), that is declared to be sikhavrddhi (hair-interest).

500. That is declared to be bhogalabha (interest by enjoyment) when (the lender) derives pleasure from (a mortgaged) house (by residing in it) or the crop from (a mortgaged field).

501. Where the complete enjoyment of the thing pledged (or mortgaged) is agreed to be the interest, that transaction of money-lending so entered into is said to be adhibhoga.

(Interest in transactions where there is no agreement as to interest)

502-504. When a person takes a loan (of money or an article) and goes to another country without returning it, that loan begins to acquire interest after a year (from the date of that loan). If a person after taking a loan (from a person) goes to another country without returning it even when pressed (by the lender to return it), tht loan begins to acquire interest after three months (from demand) where a borrower does not return (a loan) even though he be in the country and even when he is pressed (to return the loan). (the king) should make him pay interest from that day (i.e. the day of demand) though it was not agreed upon and though he be unwilling to pay interest.

505. What is lent through friendship (or affection) does not bear interest as long as it is not demanded back. If it be not returned even though it is demanded back, it bears interest at (the rate of) five per cent (per month).

506. A deposit, balance of interest, purchase and sale, these, if not paid when demand is made therefore, bear interest at five percent (per month).

507. When a man after purchasing some goods, goes to a different country

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499. We must read चर्णिकः The verse as it stands makes no sense. Haradatta on Gautama XII.32 and Saras.p.223 add one verse from Kat. which was omitted through oversight शिखेव वर्धते नित्यं शिरश्छेदान्निवर्तते।। मूले दत्ते तथैवैषा शिखावृद्धिस्ततः स्मृता।। (it constantly grows like the top knot on the head, it ceases by the head being cut off i.e. by the principal being paid, therefore this is called hair interest. Vide.Br.p.321 vv.7-8.

500. This explain adhibhoga in Gautama XII.32.

502-504. Verse 502 applies where the lender makes no request for return, 503 where he makes a request for the return of the loan, 504 where a man is in the country and does not return the loan though pressed. Compare with 502. Vi.Vi.4. verse 504 is referred to in Saundanappa v. shivbasava 31 Bom.354 at pp.361-362. Panini (IV.4.21) derives yacitaka.

505.Compare Nar.p.68.v.108. 31 Bom.354 at p.361 refers to this verse and it is said (at p.364) that it was an incident annexed to every contract of debt by the Hindu Law that interest though not stipulated for should run on it in the event of non payment after demand from the date of such demand. Neither the interest Act XXXII of 1839 nor the Contract Act affects that rule of Hindu Law.

506.Purchase and sale - if a chattel is purchased and the purchase money is not paid even though demanded, this verse applies and the interest runs from the date of demand.

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without paying the price, the price begins to earn interest after three seasons (i.e.6 months).

508. There is no interest at any time on hides (or armour), crops, wine, gambling debts, the price of commodities sold, the bride price of women and debts incurred as surety.

509. Money lent at interest may always be recovered by the creditor up to double (of what was lent). If he cannot recover double (of what was lent), he should again add further interest.

510-512. The interest stands at double in the case of jewels, pearls, corals, gold and silver, fruits, silken cloth, woolens. In the case of all oils, liquors and ghee, the (maximum recoverable with) interest should be known as eight-fold and also in the case of raw sugar and salt. (The maximum recoverable with interest) is fivefold in the case of all metals other than gold and silver and eight fold in the case of land. As the text says at once it (the maximum) should be paid at once.

(Recovery of debts-the rule when there are several debts)

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507. The Vir. explains that this applies where there is no demand made for the money.

508. There can be no interest in these cases unless it is expressly stipulated for. As to prices of commodities there is no interest only when the purchaser does not have country and there is no demand. In the case of a deposit also, there is no interest as long as it is kept intact and is not demanded back. Compare Nar.p.33.v.36.

510-512.Verse 510 says that the rule of damdupat applies in these cases. Read 'phala' for 'phaala' in 510. The sages are not agreed as to the rate of interest on various articles and so Narada observes that there are several local usages (Nar.p.67.v.105). Compare Gautama XII.28 and 33, Manu.VIII.151, Vas.II.44-47, Yaj.II.39, Vi. VI.11-17 for varying rates. All are agreed as to gold or money that the interest recoverable at one time in a lump cannot exceed the principal, which is called the rule of damdupat. There are numerous cases explaining the limit of the rule of damdupat. Vide.I.L.R. Bom.73 (damdupat not applicable to interest recoverable in execution of a decree) I.L.R.3 Bom.131 (rule applies only to Hindu debtors), I.L.R.20 Bom.721 F.B.(rule of damdupat does not apply to mortgages with possession where the terms agreed upon necessitate the existence of an account current), 1 Bom.L.R.551 (p.555 summarises three propositions), 35 Bom.199 (the Transfer of Property Act does not take away the protection of the rule of damdupat), 21 Bom. L.R.419 (this rule does not prevent an agreement between creditor and debtor to capitalise interest at a stage when the interest does not exceed the principal). Under the Deccan Agriculturists Relief Act (XVII of 1879) the benefit of the rule of damdupat is given even to non-Hindu debtors who are agriculturists.

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513. Where several debts are executed in writing on the same day (the king) should treat them all as equal, so far as the security, its protection and enjoyment are concerned, in other cases (i.e. where the debts are not of the same day) they should be paid in order (of dates).

514. But when there are several debts, whatever is incurred first should be paid first, but a debt owed to a king (or ksatriya) should be paid after one owed to a brahmana.

515. Where a creditor establishes that a particular article was manufactured (by the debtor) with the money (or materials) of the particular creditor, the debtor should give that money (recovered by sale of the article) to that creditor alone and not otherwise.

(pledge)

516. That is said to be bhogyadhi (a pledge to be enjoyed) if (a debtor) having taken a loan, gives (to the creditor) something, whether movable or immovable, which is capable of being enjoyed, for the purpose of meeting the interest. (The debtor) after repaying the principal in addition (to the income enjoyed by the creditor) would get back his field and the like (that was hypothecated).

517. If (a debtor) were to pledge the same thing to two persons what

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513. If all debts borrowed on same date can be recovered from the debtor, they should be treated equally, but if all cannot be fully recovered, then each should be recovered from the property of the debtor prorata.

514. Compare Yaj.II.41. The general rule is that as regards debts the first in time prevails over the rest. But exceptions were recognised on the ground of the caste of the creditor. Vide Sec.48 of the Transfer of Property Act and sec.56 of Bombay Land Revenue Code (which makes state revenue a paramount charge.

515. This states an exception to the rule that among several debts the earlier in time prevails over later ones.

516. Nar (p. 73 vv. 124 - 125) divides a pledge into two, viz, one that must be redeemed within a certain time (krtakalopaneya) and the other which is to be retained till discharge of debt and again divides a pledge into two varieties, gopya (to be retained only) and bhogya (to be enjoyed). Br. (p. 322 v. 17) also divides a pledge into movable or immovable, gopya or bhogya. The Saras (p 233) notes texts of Vyasa and Bharadvaja and says that a bhogyadhi is of two kinds, sapratyayabhogyadhi (where the stipulation is that the profit from the thing pledged is to be applied towards payment of interest and reduction of the principal) and apratyabhogyadhi (i.e. where the stipulation is that the income is to be taken in lieu of interest only). Verse 516 speaks of apratyayabhogyadhi, Vide Mit. on Yaj. II 64 for the same distinction between two varieties of bhogyadhi, though the technical terms are not used.

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would be the proper beginning or course of conduct (as to recovery of the debts)? (The answer is) the prior one of the two (transactions of pledge) should be accepted (as enforceable) and the person who made the two pledges would be liable to the fine imposed on a thief.

518. When a mortgage, sale and gift are made by means of a document and by means of witnesses, the transaction effected by a document would be superior, being opposed to only one mode o f proof (viz, oral evidence).

519. When there are two writings about the same transaction, one not specifying the thing and the other specifying the thing, katyayana declared that the transaction in writing which gives particulars (of the thing pledged &c) is superior (to the other).

520. That would be anirdista (not specified or ascertained) where a man pledges a thing which did not at first (i.e. at the time of the pledge) exist and the exact description of which could not (therefore) be specified and which (hence) resembled the sky. That should be indicated as nirdista (specified in detail) which exists at the time (of the pledge &c) as (exclusively) his (of the pledgor's &c).

521. Where a person having first declared (pledge) of all his property

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517. Vide Yaj. II 23 for the proposition that in pledges, gifts and sales the prior transaction is preferred to a later one. Compare Vi, V, 181 - 182 (which prescribe drastic punishments for such mortgages of land) and Br. p. 326 v. 34.

518. This verse applies to a simple pledge or mortgage (gopyadhi) where there is no enjoyment. In such cases the transaction which is effected by writing is superior to one effected in the presence of witnesses only. But if a transaction be effected before witnesses and is accompanied with possession, then there being two modes of proof in its favour (oral evidence, then there being two modes of proof in its favour (oral evidence and possession) that transaction would be superior to one effected by writing but without possession. Vide Vi, V. 184. Compare sec. 48 of the Indian Registration Act which confers priority on registered documents against oral agreements unless the latter are accompanied or followed by delivery of possession. Verses 517 - 518 show that hypothecation without delivery of possession was known to Kat.

519. This applies where there are two documents of pledge or other transaction concerning the same thing. The next verse explains what is meant by nirdista and anirdista.

520. We have to take 'yo vidyamanam' as equal to 'yah, avidyamanam; 'resembled the sky' - this means that it was vague or intangiable like the sky, not being in existence at the time of the pledge or sale and not being described as to its details. What is in existence at the time of pledge and its nature can be specified is nirdista. Compare sections 79, 82 of the Indian Contract Act as to contract for the sale of goods that are not ascertained at the time of the contract.

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afterwards effects a pledge by specifically naming (the thing pledged), how cannot the transaction marked (by specifying the name) be more powerful (than the one which is effected in general terms)?

522. When the field or house is marked out by boundaries and the village and other (details) are written (in the document of pledge), then it becomes perfect (or valid).

523. If any thing that is pledged is destroyed through the power of fats or the king, in such a case the debtor should be made to pay to the creditor the debt together with the interest.

524. (If the thing pledged) were to fall (i.e. deteriorate) or were to be destroyed without any fault of the creditor (the pledgee), the debtor should be made to give another thing (of equal value) as a pledge and he could not be free from the debt.

525. (The creditor or pledgee) who would make the pledge work unwillingly and without the consent (of the pledgor) should be made to pay the (price of the) fruits of labour (to the pledgor) or he would not get his interest.

526. He (the pledgee) who harasses and rebukes the pledge while working (for him) with words, punishment or movements, would have to undergo the first amercement.

527. Where (the pledgee) forcibly and against the will of the pledgor

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521. This applies to a case where though the thing exists at the time of both transactions, the first is a general pledge of all that belongs to a man and the second is that of a specific thing.

522. It is better to read गृहं with the सरस्वतीविलास Compare sections 21 and 22 of the Indian Registration Act.

523. 'Power of fate' such as fire, flood & c; 'power of king' where the king or his officers forcibly seize the thing pledged without any fault of the pledgee. Vide Yaj. II. 59, Br. p. 323 v. 21 and Gautama XII. 39 for similar propositions. Compare sec. 152 of the Indian Contract Act.

524. 'Nipatated' would also mean 'were to be lost' and 'mriyeta' would mean 'were to die' (with reference to cattle or other animals that were pledged). Compare Yaj. II. 60.

525. This refers to female slaves pledged. Compare Manu VIII 144 and 150, Kaut. (tr. p. 227, text p. 179) 'अनिसृष्टोपभोक्ता मूल्यशुद्धमाजीवं बन्धं च दद्यात्', Yaj. II. 59.

526. This suggests that when the slave refused to work the pledgee would not be liable to fine, if he rebuked the slave pledged.

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adds to the pledge what is not pledged, he (the pledgee) would be liable to the first amercement and the pledgor would get back his pledge.

528. When a creditor enjoys a pledge from his debtor under a vitiated document, there the king should make (the creditor) pay a fine and should destroy the deed of pledge.

529. Where the pledgor does not exist (i.e. is dead or unheard of) the creditor should proclaim the pledge (to the king). Then the pledge being proclaimed to the king should be sold by him; this is the fixed rule. The creditor after receiving his money together with interest should hand over the rest (of the proceeds of sale) to the king.

(Rules about sureties)

530.One should cause a surety to be given for repayment (of debt), for appearance, in litigation, for honesty, for (taking) oaths. In this way in other cases (surety should be given) according to circumstances.

531. If the surety for the appearance (of a person) cannot produce him at the time and place (agreed upon), he should in that case pay the debt due to the creditor (lit. What he has bound himself) except where (the debtor is prevented from appearing) by act of God or the king.

532. Three fortnights at the most should be allowed for finding out the

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527. The Saras. explains that this verse applies to gopyadhi.

529. The Par. M, Saras and Vir. explain that this verse applies where the debtor leaves no relatives. If there are relatives it is proper that they should get the balance of the sale proceeds. Compare Br. p. 325 vv. 29-30. Vide sec. 176 of the Indian Contract Act.

530. Suretyship was known from ancient times. Panini (II. 3, 39) knew it and Gautama (XII. 38) speaks of pratibhavya (suretyship debt). Manu (8-160) speaks of surety for appearance and for repayment of debt. Nar p. 70 v. 118 speaks of three kinds of sureties, viz. for appearance, honesty and re-payment (the same verse is Visnu VI.41) and in II. 10 refers to a fourth kind viz surety in litigation (i.e. one who will carry out the decretal order passed against a party). When oaths or ordeals were to be undergone at a distant date. Surety was taken from the party. Br. (p. 327 vv. 39-40) speaks of four (dars'ana, pratyaya, dana and rnidravyarpana). The distinction between the last two is that the danapratibhu undertakes to repay the debt with interest from his own pocket, while the last undertakes to make available to the creditor the property (house, furniture & c) of the debtor. Harita speaks of five, the fifth being surety for keeping the peace (abhaya). The Sm.C. explains that the surety in case of a gopyadhi was called 'adhipala' and in case of 'bhogyadhi' was called 'bhunjapaka' and that both were included herein.

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absconding (person-debtor); if he (the surety) can produce him (in that time) the surety would be free (from liability).

533. When the time (given for producing the absconding person) has expired if the surety cannot produce the person, he (the surety) should be made to pay what is due (from the debtor) and the same rule is laid down in case of the death (of the debtor).

534. Where a person becomes a surety for the appearance of a man after receiving a pledge from him, the son of the surety should be made to pay the money from that pledge in the absence of the father (i.e. in case of his death or his having gone abroad.).

535. When a man stands surety for the appearance of another, he should pay from his own wealth the debt to the creditor, if he does not produce the debtor (at the proper time and place).

536. The first two (viz.surety for appearance and honesty) should be made to pay the money that may be declared to be due at the time (when the debtor should have paid) in case of failure (in appearance or honesty on the part of the debtor), but the latter two and in their absence their sons also (are liable to pay) if the debtor fails in his promise.

537.When (several sureties have incurred joint and several liability, the son

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532. Vide Br. p. 327 v. 42 who says that in accordance with the distance of the country (where the debtor is supposed to be in hiding) a fortnight, a month or a month and half should be given. Kat mentions only the maximum period that should be allowed.

534. The Mit. on Yaj. II. 34 explains that this applies to the surety for honesty also. In Narayan v. Venkatacharya 6 Bom. L.R. 434 it is said that under the Mit. a grandson is not bound to pay the suretyship debt of his grandfather unless the latter received some consideration for it. In I.L.R. 10 Patna p 94 it was held that if the father stood surety for honesty, the son was not bound to pay that debt. Vide also 4 Pat. L. J. 309.

535. This is Manu VIII, 158.

536. This is the same as Br. p. 327 v. 41. This verse obviously refers to the four kinds of sureties mentioned by Brhaspati. Vide note on 530. The latter two mean the surety for dana (repayment of debt) and for rnidravyarpana (delivery of the goods of the debtor to the creditor). The son of the surety for appearance and honesty is not liable to pay his father's suretyship debt, but the sons of the other two kinds of sureties are liable to pay (but not the grandson). In Tukarambhat v. Gangaram I.L.R. 23 Bom. 454 at p. 459 the texts of Yaj, Br. and Kat. are examined and it is held that ancestral property in the hands of sons is liable for the suretyship debts of the father when the father was a surety for payment of money or for delivery of goods; vide I.L.R. 28 Mad. 377 (suretyship debt of father for

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should pay the whole debt if the father has gone abroad, but if the father be dead, then the son need pay only the share for which his father would have been liable and not the debt claimable from others, (the co-sureties). This is what brhaspati says.

538. Who ever out of several (sureties) that have incurred joint and several liability is found present at the place (of the agreement) should be made to pay (the whole debt); if (a surety) be gone abroad; then his son should be made to pay the whole, but if (a surety) be dead, then the son should be made to pay only the share of his father.

539.If one who having stood surety gives back the debt as a surety being harassed (by the creditor) he is entitled to receive (from the original debtor) twice the amount (paid to the credition) after the lapse of three fortnights.

540. What ever is rightly paid for another person by one (the surety) to

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payment held binding on ancestral property in the hands of sons, but not where he was surety for keeping the peace); 39 Cal. 843 (where it was held that suretyship debt of the dana type must be paid by son though no actual loan had been advanced to the principal); 26 All 611. Vide notes on vv. 555 - 556 and 561.

537. Yaj. II. 55. says that if there are several sureties they should pay the creditor according to their shares. But if their liability is joint and several, then the creditor may proceed at his will against any one for the whole. Vide Nar. p. 71 v. 120. This verse says that when there is joint and several liability, the son of a surety who has gone abroad may have to pay the whole debt if the creditor demands it from him, but if the father be dead, then the son has to pay what would fall to his father's, share (if the debt were distributed among all the sureties). 'Ekacchaya srita' is a technical expression and is explained by the Mit. as 'ekasya adhamarnasya chaya sadrsyam tam-asritah' i.e. those who agree to hold the same position as the principal debtor (who has to pay the whole debt if demanded). The Mit. and Sm. C. say that when the son pays the whoe debt due from his deceased father as surety, he need not pay interest while the Vir. holds the opposite view.

538. The Vir. notices that Kat, as read by Sm.C. was what is verse 537. This verse is practically the same as 537 and the two are probably two versions of the same verse of Kat.

539. Vide Br. p. 328 v. 44 for the same verse. This applies only if the surety pays under pressure from the creditor. If he pays out of greed for demanding double of what he has to pay, he would not be entitled to double, nor would he be entitled to double if the original debtor compensates the surety within three fortnights. Vide Yaj. II. 56 and Nar. p. 71 v. 121, both of whom do not expressly impose the condition of the lapse of three fortnights. Compare see. 145 of the Indian Contract Act.

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whom a demand is addressed (by the creditor) and (whose liability) is proved by witnesses, the surety is entitled to get that (from the original debtor).

541. When there is a failure (to perform a contract) even though an earnest had been given by one party, then (the king) should make the other party (who is in default) pay double (of earnest). The purpose of taking an earnest is to make the party suffer the loss of it when he does not abide (by his agreement).

(Who should pay the debt contracted by the father and other)

542-543. A debt incurred by (the head of the family) when unable to maintain the family or when suffering from a disease and for the purpose of (meeting) a calamity, which (debt) is known as 'apatkrta' (incurred in distress), debt incurred for (expenses) of a daughter's marriage and what is incurred for (meeting) funeral expenses - all these debts incurred by the head of the family must be paid by the family.

544. That the father need not pay the debt incurrred by the son is the rule of law, but (the father) must pay that debt (of his son) which he promised (to pay) or which was (incurred by the son) with his consent.

545. A debt incurred for the (purposes of the) family by the slaves, the

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541. This verse is rather obscure. Panini (VI. 3.70 'Kare satyagadasya') notices the word 'satyamkara' which is explained by the commentators as 'sapathakaranam' Yaj. (II. 61) has the half verse 'Satymkarakrtam dravyam dvigunam pratipadayet, which is explained in two ways by the Mit. One meaning is that if one mortgages or pledges with the express stipulation that when the principal rises to double, he would pay double the money, but would not lose the property mortgaged or pledged, then the creditor is only entitled to double the principal, but not to the property. Another meaning is that when A gives some article such as a ring to B by way of earnest in a contract of sale & c. (here 'satyamkara' means 'a thing or money given by way of earnest'), if the contract goes off through the default of A who gives the earnest, he loses the earnest, but if the contract goes off through the default of B to whom the earnest is given, the defaulter has to pay double the earnest or double the price thereof.

542 - 543 Manu VIII. 166 and Yaj. II. 45 restrict the liability of the family to debts incurred for the purposes of the family. Compare Visnu VI, 34 Nar. p. 45 v. 13.

544. Here as the Sm. C says the words 'putra' and 'pita' stand for 'any member of family' and for 'head or manager of the family' (father, grand-father, eldest brother, uncle & c). The debt referred to in this verse is one not incurred for the purposes of the family, but is an individual debt and 'dharmatah' implies that the father may through affection pay his son's individual debt but is not bound to do so.

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wife, the mother, the pupil or the son (of the head of the family) even without his consent when he is gone abroad should be paid (by the head of the family). This is (the view of) Bhrgu.

546. A woman should pay a debt incurred by her along with her husband, or son or incurred by herself alone, but need not pay debts incurred by them otherwise.

547. A wife who was adressed by her husband when about to die 'you should pay my debts' should be made to pay even though she does not accept (or consent to the direction) if she has wealth in her possession.

548. A debt incurred by the father, if he is afficted with disease or has gone abroad, shall be paid by the sons after the twentieth year, even when the father is living.

549. (The king) should make the sons pay such debts (of their fathers) even though they be living, if they are afflicted with disease, are mad or old or have gone on a long journey.

550. Sons must pay the debt of their father when it is proved (by evidence) even when the father is near (or living), if the father is blind from birth, a patita (guilty of grave sins), mad or suffering from tuberculosis, leprosy (and other incurable diseases).

551. Since fathers are released from wretched indebtedness by sons when

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545. Compare Manu 8.166, Yaj. II. 45, Nar. p. 45 v. 12 and Br. p. 329 v. 50. This verse is quoted in Virasvami v. Appasvami 1 Mad. H. C.R. p. 375, 379 n (when a husband married a second wife and the first wife left him, it was held that the first wife had no implied authority to borrow money for her support).

546. Compare Nar. p. 46 v. 16 Sm.C explains that if she has not joined them in debt, she need not pay even on their death-Compare Yaj. II. 46 and 49. In Narotam v. Nanka I.L.R. 6 Bom. 473 it was held that a married woman who contracted a debt jointly with her husband was liable to the extent of her stridhana only and not personally. Vide I.L.R.I. Bom. 121, 124 where this verse is cited. The Mit. on Yaj. II. 49 says that the purpose of the last clause is to indicate that a woman need not pay a debt incurred by her husband for liquor or in gambling even if she joins with him in incurring it or accepts liability for it.

548. The Sm.C. explains that the son had to pay his father's debt when twenty years elapsed after his goind abroad. Compare Visnu VI. 27 and Nar. p. 46 v. 14. Vide I.L.R. 41 Mad. 136 at p. 149 and I.L.R. 42 Mad. 711 (F.B.) at p. 730 where this verse of Kat is referred to. Visnu makes it clear that the son had to pay his father's debt when the latter became a sannyasin.

549. According to the V.R. p. 51, v. 549 is an exception to v. 548. It says that if the father's disease be incurable or if it is certain that the father would not return from his journey then the son was not to be allowed to wait twenty years, but was bound to pay at once.

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born on account of the latter's paying off (the debt), therefore desire (to have) sons.

552. (A son need) never pay (the debt of his father) when the father is dead, if he (the son) has not attained years of discretion. But when the proper time (to pay the debt) comes, he must pay according to the law, otherwise his fore fathers may remain in hell.

553. If (a son) has not reached (years of) discreation, he, though independant, is not liable for the debt (of the father). (Real) independence is understood to belong to one who is senior and seniority is due to the (attainment of) certain qualities and age.

554. That debt of the grand-father which is seen (or ascertained) to be due or a part of which remains to be paid must be paid (by the grandson), but a debt which is tainted or which was repudiated by the father need never be paid (by the son &c).

555. That debt which descended hereditarily from the grandfather, which was ascertained by the father (i.e. the son of the grandfather) as due, which is free from taint and which was not repaid by sons (of the grandfther) should be paid by the grandsons. (This is the view of) Bhrgu.

556. When the debt of the grandfather is not repaid by his sons because they were afflicted with disease, such a debt of the grandfather should be paid by the grandson, but only the principal (should be paid).

557. (The king) should make the son pay (the debt of his father), if he (the

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551. Compare Nar. p. 42 v. 5. Vide verse 591 below for the result of non-payment of debt. It is therefore that debt is said in this verse to be 'adhama' (that is, what reduces a man to a low state). 'When born' - it is not meant that a son the moment he is born is called upon to pay off his father's debt; that liability is incurred by him only when he has reached the age of discretion. Even the Taittiriya Samhita (III. 3. 8 I - 2) refers to 'kusidam-apratittam' (debt unpaid) and expresses an ardent desire to be free from it.

552. A person was a minor till the age of 16; vide Nar. p. 51 v. 35 and Kautilya (text p. 154 and tr. p. 196) 'women when twelve years old attain majority and men when sixteen (द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्षः पुमान्').

553. 'Independent' because of the death of the father. This is the same as Nar. p. 50 v. 31.

554. 'Tainted' - a debt is tainted when it is incurred for liquor, lust, gambling, when it is a fine or a toll & c. Vide Gautama XII. 38, Manu VIII. 159, Vas. 16. 31, Kaut p. 189, Yaj. II. 47 and Mit. thereon for an enumeration of debts declared to be so tainted that the son need not pay them.

556. 'Such a debt' means a debt not tainted as laid down in the texts cited in the note to v. 554. Vide notes on 560 - 561 Compare Br. p. 328, v. 49.

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son) be free from diseases, capable of taking the estate (of his father) and is able to shoulder the debt; but (he) should not make the son pay otherwise.

558. What is owed by the father must always be paid to the creditor in his absence by the sons or grandsons from his property.

559. While the father's debt remains (unpaid) the son shall not take the wealth (of the father); that wealth should be made over to the creditor; when (the father) is dead and the son takes the wealth (without paying the debt) he should be made to pay (by the king).

560. In the absence (i.e.death) of the son, the grand-son should sedulously pay the debt; the fourth (in descent) should not pay (the debt of the ancestor); (the liability to pay the debt of the ancestor) ceases in his case.

561. The debt (of the grandfather) arising from suretyship need be paid by

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557. 'Capable of taking' i.e. not liable to be excluded from inheritance for causes mentioned in Manu IX. 201 and Yaj. II. 140; 'able to shoulder' - of age and able to pay back the debt.

558. 'In his absence' - on his death & c.

560. Compare Nar. p. 42 v. 4 Dr. Jolly has a long note on this passage and on p. 44 he makes this remark : 'The doctrine viz. that the liability to pay debts contracted by an ancestor extends to the great-grand-son is opposed to the teaching of such an eminent authority as Vijnanesvara, who maintains in the Mitaksara that the great-grand-son is not liable for debts contracted by his great-grand-father and conversely, that he does not inhert his property'. He makes similar remarks in his Tagore Law Lectures (on Partition & c. 1885) p. 171 'but in the law of debt also, the liability to pay debts contracted by an ancestor stops with the grandson. There is every reason to suppose that in the law of inheritance also, the exclusion of the great-grand-son from the narrower community of heirs by Vijnanesvara and Visvesvara is intentional and not accidental'. The learned author has here fallen into a double error. The Mit. has nowhere said that the great-grand-son is excluded from inheritance. The Smrti texts on the payment of debts by descendants present an apparent conflict. For example, vv. 555 and 558 (as also Yaj. II, 50) make no distinction between sons and grandsons as to liability, but v. 556 and Br. p. 328 v. 49 say that the son must pay the debt with interest, while the grandson need pay only the principal. The first canon of interpretation is that a conflict between texts is to be avoided and they are to be construed as one coherent whole (this is called the 'ekavakyatanyaya; vide Jaimini II. 1). This can be accomplished by assigning to each text its appropriate sphere (i.e. by following the principle of visaya - vyavastha). Therefore an examination of the several texts and the propositions is that the debt of a man must be paid by his three descendants (son, grandson and great-grand-son) if they have ancestral estate in their hands. This follows from the rule of Yaj. II. 51 that whoever takes the riktha (ancestral estate) has to pay the debt and from the verses of Katyayana (855-

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856) that there descendants of a man form a coparcenery. The Mit. on Yaj. II. 51 distinctly says that 'the great-grand-son' and the like of him who is without son or grandson should be made to pay the debt if they take the riktha (ancestral estate) but not otherwise'. (पुत्रहीनस्य रिक्थिन इत्येतदपि पुत्रपौत्रहीनस्य प्रपौत्रादयो यदि रिक्थं गृह्णन्ति तदा ऋणं दाप्याः नान्यथेत्येवमर्थम्) Dr. Jolly somehow failed to notice this remark in the Mit. and made the wrong assertion quoted above. This proposition is followed by modern decisions in British India Vide. 19 All 26 (F.B.) and 4 Patna 478 where grandson taking assets was held liable to pay grandfather's debt with interest; while 53 I.A. p. 204 = 48 All 518 (P.C.) which is the latest case on the point decides that the great-grand-son (who has taken assets) is liable to pay the debt of the great-grand-father with interest just as a son is liable. This rule is embodied in vv. 555, 558. But if sons and other descendants took no ancestral estate, it was felt even in ancient India that it was a great hardship that all three descendants should be made to pay the debt of the ancestor with interest. Therefore the second proposition that was enunciated by ancient and medieval Hindu lawyers was that even when no ancestral assets were taken, the son should pay his father's debt with interest, the grandson should pay his grandfather's debt but without interest and the great-grand-son was not liable to pay even the principal. This proposition is embodied in Br. (p. 328 v. 49) and in Kat. v. 556). The Mit. on Yaj. II. 50 quotes the verse of Br. and remarks 'अत्र च पुत्रपौत्रैर्ऋणं देयमित्यविशेषेणोक्तं तथापि पुत्रेण यथा पिता सवृद्धिकं ददाति तथैव ऋणं देयम् । पौत्रेण तु समं मूलमेव दातव्यं न वृद्धिरिति विशेषोवगन्तव्यः । ऋणमात्मीय .... मदेयं तत्सुतस्य त्विति बृहस्पति वचनात् । तत्सुतस्य प्रपौत्रस्यागृहीतधनस्य ।' Dr. Jolly probably reues on this passage of the Mit. but he failed to grasp the implication of the word 'agrhitadhanasya' (if he has not taken ancestral wealth). In Narsimharav v. Krishnarav 2 Bom. H.C.R. p. 64 it was held (probably following Brhaspati p. 328 v. 49) that the grandson was liable to pay the debt of his grandfather without interest independently of assets. In order to remove the great hardship on heirs (taking no ancestral estate) caused by this decision Bombay Act VII of 1866 (the Hindu Heirs Relief Act) was passed whereby it is provided that a son or grandson is not liable to be used for the debts of his deceased ancestor merely by reason of the being such son or grandson and that the son or grandson or other heir of the deceased shall be liable only to the extent of the assets that come to his hands. Judicial decisions have laid down that the same is the law in other parts of British India. In I.L.R. 19 All p. 26 at p. 29 both verses of Kat. about the grandson's liability (to pay with interest and also without interest) are referred to and in I.L.R. 4 Patna 478 at p. 482 the judges express their inability to understand what Brhaspati meant when he declared that the grandson should pay grandfather's debt without interest and follow Yaj. and Visnu and refuse to follow Brhaspati. The Viramitrodaya (p. 34) very tersely but clearly puts forward the two propositions 'पुत्रेण रिक्थग्रहणाग्रहणयोः सवृद्धिकमेव देयम् । पुत्राभावे पौत्रेण रिक्थग्रहणे सोदयं देयम् । अग्रहणे मूलमेव । प्रपौत्रेण तु रिक्थाग्रहणे मूलमपि न देयम्।।

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A third proposition (which is an exception to the first two) is that even a son is not liable to pay the debts of his father incurred for liquor, gambling, or arising from lust, suretyship or a fine or toll or a promise made without consideration or whatever debt is not 'vyavaharika' (vide Gaut. XII. 38, Manu VIII. 159, Vas. XVI 31, Kaut p. 189 and Usanas as quoted in Mit. on Yaj. II. 47). Other writers restricted the non-liability of the son for suretyship debts to cases where the father stood surety for appearance or honesty. Vide notes on vv. 536 and 534 above. In Brij Narain Rai v. Mangla Prasad L.R. 51 I.A. 129 (= 46 All. 95) the Privy Council laid down five propositions as to the liability for debts contracted by managers and fathers of joint Hindu families viz, (1) The manager of joint undivided estate cannot alienate or burden it except for purposes of necessity; (2) if the manager be the father and the other members be his sons, he may, so long as it is not for an immoral purpose, lay the estate open to be taken in execution open a decree for the payment of his personal debt; (3) if the father puports to burden the estate by a mortgage, it would not bind the estate unless it is made for discharging an antecedent debt; (4) 'antecedent' means 'antecedent in fact as well as in time' i.e. it must be truly idependent of and not part of the transaction impeached by the son; (5) this result is not affected by the question whether the father is alive or dead. It will be observed that the Privy Council makes (in propositions 2 and 3) a distinction between a pure money debt of the father secured by a mortgage. The ancient Hindu Law books afford no warrant for this distinction. Further the Privy Council in Suraj Bunsi Koeo v. Sheo Proshad 6 I.A. 88 at p. 106 (= I.L.R. 5 Cal. 148, 171) for the first time used the words 'antecedent debt' when saying that the whole ancestral estate including the son's interest would be liable 'where the conveyance was executed by the father in consideration of an antecedent debt or in order to raise money to pay off an antecedent debt'. Those words for which there is nothing corresponding in the ancient texts became the subject of elaborate arguments and decisions throughout India as if they were the dicta of the ancient sages themselves. According to the Privy Council (vide proposition 5) the son's liability to pay his father's debts is absolute during the father's lifetime as after his death. This goes far beyond the spirit of ancient Hindu Law which made the son liable after the father's death or during his life only if he had gone abroad for many years or was afflicted with incurable disease or was extremely old (vide vv. 548 - 550).

If verse 560 means the same thing as Nar. p. 42 v. 4 and Br. p. 328 v. 49, then the meaning is that the great-grand-son need not pay even the principal, if he has taken no ancestral estate. Here if the father be A, the son B, the grandson C and the great-grand-son D, then A, B and C are the three persons liable for A's debts (through C is liable only for the principal if he has taken no estate) is not liable. It is in this way that Kat. vv. 555, 558 on the one hand and 556 and 560 on the other are to be taken as referring to different sets of circumstances (viz., taking the ancestral estate in the first two and not taking it in the last two).

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the grandson; even the son need pay only the principal (of the suretyship) debt of his father.

562. The debt must be paid by him who takes the estate; if there be none such then by him who takes the wife; in the absence of such a person (taking the wife) by the sons and then by others in order (of heirship) who take the estate.

563. As long as the son does not get his father's wealth when it exists, so long he, though well off should not be made to pay as a debtor (the debt of his father).

564. What was promised whether in writing or without writing must be paid, but (what was promised) to the wife of another should be known as a debt due to lust.

565. Where (the father) after having caused through anger (physical) injury

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562 - 563. Compare Gautama XII, 37, Yaj. II, 51, Nar p. 48 v. 23 and Br. p. 329 v. 52. Vide verse 577 below. Vide my notes to V.M. pp. 340 - 345 for detailed explanation of Yaj. II. 51 which is practically the same as this verse. This verse settles the order of persons liable to pay the debts of a deceased person. First comes he who takes his wealth (this may include a son or grandson or great-grand-son who takes the estate). If the deceased left no estate then he who took his widow had to pay the debt of the deceased. This does not mean that widow remarriage was approved of by the sages. Manu (V. 162) rather condemns it. But remarriages took place by custom and sometimes a widow may be kept by a man as a mistress. In such a case the second husband or lover was liable to pay the debts of the first husband. That this was apprehended to be the law even in modern times is clear from the fact that section, 4 of the Hindu Heirs Relief Act (Bombay Act VII of 1866) expressly provides' no person who has married a Hindu widow shall merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow'. If there were no estate and also no widow, the son was liable to pay the debts (even though he took no estate). A man might die leaving an estate and a son who was incompetent to inherit owing to some physical or mental defect. In such a case a distant relative might take the estate (and not the son) and that relative would be liable to pay the debts (and not the disqualified son). Verse 563 makes it clear that even if a dis-qualified son has ample self-acquired property he would not be liable to pay his father's debts if the father died leaving an estate which never came to the son, but was taken by somebody else.

564. Yaj. II. 47 says that a son was not bound to pay the debt icurred for lust by the father. Kat. here explains what is meant by 'kamakrta' (incurred for lust).

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to another or having destroyed the latter's wealth, promises something that pacifies him (the person wronged), that is declared to be a debt incurred through (the influence of) anger.

566. If a gift was promised by a man for a religious purpose whether when in good health or when afflicted with disease, the son should be made to pay it, if the father (the promisor) dies without (actually) giving it over; there is no doubt on this.

567. (The debt contracted by) liquor sellers and the like, who have no wealth and no issue, shall be paid by him who enjoys their wives.

568. The debts contracted by the wives of liquor-distillers, hunters, washermen, herdsmen, and sailors shall be paid by their husbands (lit.protectors), since they are inccured by them for the purposes of their husbands.

569-570. The debts contracted by wives shall in no way involve (bind) the

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565. Among the debts which the son was not liable to pay Brhaspati (Br. p.328, v. 51) included promises made under the influence of love or wrath; Kat. here explains the latter.

566. Read 'sravitam' for 'bhavitam'. Vide verse 642 also. The only cases where an imcomplete gift not actually made but remaining only in promise was enforced by the courts in ancient India are those in vv. 566 and 642. This verse contains the germs of the idea of a will, since the mere declaration of the intention of a man to give for religious purposes is here made enforceable after his death. Apararka p. 782 says that the word 'son' is only illustrative and every heir taking the estate of the promisor would be liable to make good the promise to make a religious gift. In modern times a mere gift for dharma without specifying any particular object is declared to be void for uncertainty. Vide 6 Bom. 24, 14 Bom. 482, 17 Bom. 351, 18 Bom. 136, 23 Bom. 725, 735 (P.C. = 26 I.A. 71). But this is opposed, as pointed out in 30 Mad. 34, to the spirit of ancient Hindu Law. Vide Manu IV. 227 for dharma meaning इष्ट and पूर्त gifts.

567. Mandlik translates (tr. of Mayukha p. 114) 'Saundika' as 'drunkard' but this is wrong, since it means 'one who distils or sells liquor or wine'.

568. The V.R.(p.50) reads 'napita' (barber) for 'navika' and ascribes the verse to Brhaspati (vide Br. p. 329 v. 53). Read 'rajaka' for 'janaka'. Compare Yaj. II. 48, Nar. p. 47 19 and Visnu VI. 37 V.R. and Vir. explain that the verse is not restricted to women of these casts only, but applies to women of all castes like oil-pressers where the livelihood of the husband depends upon the labours of their wives. This verse is not meant to apply only to debts incurred by such women for purposes of the family but to all debts incurred by them.

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husbands, except when they are contracted in distress (of the family). For the manifold activities of human beings are (made) for the sake of the family. But the wives of washermen, hunters, herdsmen, distillers of liquors (are exempt from this rule). The income of the husbands (in the case of these women) depends on them (their wives) and the family also is maintained by them.

571. If a woman possessed of considerable (stridhana) wealth repairs to another man against the wishes of her son, the son should take away from her the (stridhana) wealth in the absence of daughters (i.e.if there are no daughters).

572. One should bring into the world (i.e.produce) progeny for the purpose of (paying off) debts and not merely for the sake of (sensual) pleasure. Therefore the parents should not be made to pay (the debts of their progeny) when contracted for an improper purpose.

573. If a woman, who has a son, forsakes her son, though quite able (to bear the burden of the family), then depriving her of her stridhana wealth, the son should pay off his father's debt (with it). (This is the view of) Manu.

574. If a woman possessed of considerable wealth has a minor son and she repairs to another husband, then the person to whom she resorts should pay the debt (of her husband). This is declared to be the rule about a woman having a minor son.

575. (The debts) of those who have gone on a distant journey, who are without relatives, who are idiots or mad, who are afflicted (with incurable diseases) and who wear peculiar sect marks (like the Bauddha ascetics) should be paid by those who have taken their wives and wealth, even when they (the former) are living.

576. Where the son (of a man) is over whelmed by calamities or where he

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569 - 570. It is probable that these verses are not Katyayana's, but Narada's. Verse 570 contains the same principle that is embodied in v. 568. These are the same as Nar. p. 47 vv. 18-19.

572. 'Tantu' means 'apatya' (progeny)

573. If the woman forsakes her son and repairs to another (blinded by love), the son should deprive her of her stridhana and should pay off his father's debt. 'Though quite able' -- The same result follows if the son be not able (i.e. if he be a minor etc.)

574. Compare Nar, p. 47 v. 21. If we read 'trataram' for 'bhartaram' as Sm.C and Saras. do, then the meaning is : if a woman having a minor son and much wealth resorts to another man as a protector (such as her brother or maternal uncle), then the latter should pay (i.e. make her pay) the debt of the husband.

575. For 'lingi' vide v. 349 above.

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is found to be a minor, then (the man's debt) should be paid by him who takes the wealth; in the absence of such a person, he who takes the wife (of the deceased debtor) should be made to pay the debt.

577. The taker of (a man's) wealth shall first pay (his debts); after him the son (should be made to pay); when there is no son or when the son is extremely poor, the taker of the wife (shall pay the debt).

578. The husband should pay a debt contracted by his wife and the son should pay a debt contracted by his in other, if it is contracted for the sake of the husband (by the wife or the mother) when he (the husband or the son) goes abroad after telling her.

579. (A father) must pay debt contracted by his son which was approved of (after it was incurred) and when the father heard of it and which was incurred at the order (or pressure) of the father.

(Discourse on the recovery of debts from the debtor by means of imprisonment and the like).

580. The debtor may be held in restraint (by the creditor) openly before an assembly of people according to the custom of the country, so long as he does

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576. This applies where, though the son is capable of succeeding, he is a minor or is suffering from diseases; then in such a case the man who keeps his father's wealth with him (such as an uncle) should pay the debt of his father. This verse only says that such a son is not under a liability to pay and does not lay down the order in which persons are liable to pay debts.

577. Vide v. 562 above. Compare Nar. p. 48 v. 23. There is an apparent conflict between this verse and v. 562 (and Yaj. II. 47). But there is really no conflict. This verse applies to a particular case. First the taker of assets should pay a man's debts; if there are no assets then the son who is much more wealthy than the taker of the wife (of the deceased) should then pay the debt, if the son is not wealthy and no assets are left then the taker of the wife should pay; when there are no assets, nor taker of the wife, then even an indigent son should pay.

578. It is better to read 'bhaktasyarthe' for 'bharturarthe'; the meaning is that when a wife or mother is compelled to incur a debt for the bare maintenance of herself because the husband or son went to a distant country, the husband or son was liable to pay it. 'After telling her' - the same result would follow if he went away without telling her where he was going. If we read 'avidhaya' it would mean 'without providing for her maintenance'.

579. Vide 544 above. Compare Nar. p. 45 v. II.

580. Vide vv. 585 - 586. There are five modes of recovering a debt, viz. dharma, vyavahara, chala, acarita and bala. Vide notes on v. 477. These five modes are mentioned by Manu VIII. 49 Nar. p. 71 v. 122, Visnu VI. 18, Br. p. 329 v. 54 Br. (p. 330 vv. 55 - 58) defines four of these (except vyavahara). Even Apastamba

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not pay what he owes.

581. Where the man held restrained has an inclination for making water or voiding faeces, he should be followed behind (by the creditor) or he should be allowed (to go alone for that purpose) in fetters.

582. He (the debtor) if a surety be furnished, should be released every day at the time of taking meals and at night, while the surety remains in custody.

583-584. That debtor who cannot secure a surety for appearance or who will not accept (the proposal to be let off on furnishing) surety (though one is available) should be confined in jail or should be placed in the presence of guards. A respectable man, who is trust worthy and pure (in conduct) should not be confined in jail. He should be let off without a surety or after being bound by an oath.

585. The creditor should recover (the debt) from his debtor when he is first shown to be so by imprsoning him or by putting pressure on him (by fasting at his door), by making him work for him by judicial proceedings and by moral persuasion.

586. In the same way (a creditor) may recover his money by a pretext or by 'acarita' (the customary mode of sitting at the door or fasting &c). He should make ksatriya, vaisya and sudra debtors of the same caste as his own or of a lower caste (than his own) pay off (the debt) by working for him.

(1. 6, 19.1) refers to the mode of sitting at the door of the debtor (what is called 'dharna') or the 'acarita' of Manu. Verse 477 refers to 'desacara' (custom of the country). The Sm.C explains that this verse exemplifies 'desacara' and that the creditor may himself restrain the debtor (in one country) or employ a person for hire (according to the custom of another country). V. R. says that this is an illustration of the 'vyavahara' mode of recovering a debt.

581. The Sm.C. says that fetters are to be put on a very bad debtor only. The V.M. reads 'nibandham va' and explains that 'he should be allowed to go on furnishing a surety for appearance'.

582. The last quarter may also mean as Sm. C. and Vir. say 'the surety having undertaken to prevent him from absconding'.

584. 'Anibaddhah' may mean 'without fetters' (vide v. 581 above) or 'without guards' (as the Sm. C. and Vir. explain).

585. 'Pidana' stands for 'bandhana or the mode of bala', 'uparodha' for 'acarita'. If we read 'vibhavitam', it would mean 'a debt that is shown to have been incurred'. Compare Manu VIII. 50, Yaj. II, 40 and Nar p. 72 v. 123.

586. Vide v. 480 for a similar verse. Compare Manu VIII 177, Yaj. II. 43 and Br. p. 330 v. 59 who further provide that a debtor of a higher caste than the creditor should not be made to work for the creditor, but should be made to pay by instalments according to his ability.

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587 - 588. These are practically the same as 477 - 478.

589. Where a creditor harasses a debtor who claims investigation in a court he would lose his claim and would incur a fine equal (to the claim).

590. If (the creditor) were to make the debtor do for him dirty work which was not at first indicated (to the debtor when he was called upon to work), the creditor would have to undergo the first amercement and the debtor would be released from the debt.

591. He who having taken a debt or the like does not pay it back to the creditor (or owner) is born in the (latter's) house as a slave or a servant (for wages), a wife or a beast.

(Deposit)

592. An article that is sold (but is still in the hands of the vendor), what is deposited with a man when one is going on a distant journey, a pledge, bailment to one for delivery to another, a loan (of ornaments etc. for temporary use), what is handed over to a man as a trader (for sale as an agent) all these are declared to be upanidhi.

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587 - 588. Verse 477 read राजा तु स्वामिने and here the reading is 'राजानं स्वामिनं विप्रं' which would mean 'he (the king) should make a ksatriya or a brahmana debtor pay to the creditor & c.

589. 'Harasses' - this refers to 'bala' and the other coercive measures (except vyavahara) to which a creditor was allowed to resort if the whole claim of the creditor was admitted. 'Nyayavadi' literally means 'one who says that he would pay what would be found by the judge to be justly due'. Where there was a dispute about the amount of the debt due, the creditor's only remedy was a law-suit. Compare Br. p. 331 vv. 63 - 65.

590. Compare vv. 479 and 586, which lay down that a debt may be liquidated by doing work for the creditor.

591. 'Debt and the like' - The same holds good in the case of an article borrowed or a deposit, Vide v. 551 and compare Nar. p. 44 v. 8.

592. The words upanidhi, nyasa and niksepa are very similar in meaning but they were differentiated by writers on law. 'Niksepa' is a deposit entrusted to a man in his presence after counting before him the coins & c; 'upanidhi' is the deposit of articles enclosed in a sealed box or envelope (the articles not being counted in the presence of the depositee); a 'nyasa' is a deposit not made in the presence of the depositee, but handed over to persons in his house for being given into his custody. These three words, particularly 'nyasa' and 'niksepa' are often used as synonyms. Vide Vir. p. 361 (for all the three) and Mit. on Yaj. II. 67 for nyasa

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593. Whatever is deposited with a person, should be preserved by him with efforts; the loss of the article arising otherwise than by fate (act of God) or the king is proclaimed as due to him (to his neglect).

594. He, by whose fault anything (that is deposited with him) is destroyed or lost, should be made to pay the thing together with interest, except in the case of fate or king (act of God or king).

595. If the thing bailed is lost even by act of fate or king after it is demanded back, the bailee should be made to pay the price of it only (to the bailor); there is no doubt about this.

596-597. who ever uses up (lit.eats up) the property of another which was with him as a nyasa (deposit) or the like, or who takes no care about it or who alllows it to be destroyed ignorance shall be made to return it (or its price). What he used up he should made to return with interest, he should be made to return with interest, he should be made to pay the equivalent (only, without interest) of what he neglected, he should be made to pay a little less (than the price of) of what he allowed to be destroyed through ignorance.

598. Where a thing deposited is destroyed even without the act of fate or king together with the goods of the bailee, the loss is declared to be that of the depositor.

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and niksepa. Yaj. II. 65 defines upanidhi as defined by the Mit. Nar. p. 120 v.I defines niksepa and p. 121 v. 5 defines 'upanidhi'. Br. p. 332 vv. 2-3 define nyasa (as including both nyasa and niksepa) and upanidhi. Manu VIII. 185 employs the terms niksepa and upanidhi. Kaut p. 177 has a chapter on 'upanidhi' a generic term for all bailments. For the definition of 'anvahita' or 'anvadhi' vide v. 611. Where A makes a deposit with B and B hands it over to C for being delivered to A, this is 'anvahita'. Kat. means that all the rules about the preservation and return of these various kinds of bailments are the same. Vide Yaj. II. 67, Nar, p. 123 v. 14, Br. p. 334 v. 15.

594. Compare Gautama XII. 39, Nar, p. 122 v. 9, Br. p. 333 vv. 10-11. 'Fault' means 'negligence' & c. Compare sections 151 - 152 of the Indian Contract Act (of 1872) for similar provisions as to the care required of the bailee.

595. Compare Nar. p. 111 v. 7 which prescribes punishment for not returning a deposit after demand. Manu VIII. 191 and Yaj. II. 66 do the same. Compare secton 161 of the Indian Contract Act.

596 - 597. Compare Yaj. II. 67, Nar. p. 122, v. 8 and Br. p. 333 v. 11 and sec. 154 of the Indian Contract Act. The Mit. on Yaj. II. 67 says that 'a little less than' means 'minus one fourth of the price'.

598. Compare Nar. p. 122 v. 9, Yaj. II. 66, Manu VIII. 189 and Br. p. 333 v.10.

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599. Where the depositor, even after knowing the (probale) loss of an article, deposits it, there the bailee is no made to pay even if the deposit is lost for any cause whatever.

600. What ever is lost through the fault of the bailee, that loss falls on the bailee; when it is lost or stolen the bailee must offer (to the bailor) the price (of it).

601. The deposit (upanidhi) should be taken back (by the depositor) at the proper time; (the bailee) should avoid (returning it) at an improper time. If he returns at an improper time, he (the bailee) should be made to pay fine double (of the value of the thing).

602. These rules are declared to apply to all kinds of upanidhis.

603. If an artisan retains an article delivered beyond the definite number of days during which it was (agreed) to be worked up, he should be made to pay (its price) even if it was lost through fate.

604. The artisan shall not be made to pay (the price) if the article (delivered for being worked up) were to be lost through defects in the article itself. If what is delivered for being worked up is destroyed through the fault of the artisan, he should be made to pay (the price).

605. If an article is destroyed after it is worked up a little only, then the loss (of the wages for that much work) falls on the artisan employed, but when an artisan desires to deliver an article (to the owner) after it is finished, the loss belongs to the (owner) who did not take it, if it be destroyed.

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599. Where the depositor knows that if he deposits an article with A, it is likely to be lost through the act of God or King and yet deposits it with A, the latter is not liable for loss even if it occurred for any cause other than act of God or king.

600. The latter half occurs in Par. M. III. p. 290 with the reading 'mrte' and 'avahet'.

601. 'Proper time' i.e. at the time when the cause of fear on account of which the deposit was made ceases to exist; 'improper time' if the bailee returns before the cause for fear & c. has ceased or before the bailor demands it. Br. p. 333 v. 8 says a deposit should be returned when it is at least once asked for.

602. Compare Yaj. II 67, Nar. p. 123 v. 14, Br. p. 334 v. 15.

603. Compare sec. 161 of the Indian Contract Act.

604. If old worn clothes were handed over to a washerman and they were torn in the process of washing because they were worn out, the washerman was not liable.

605. If yarn is given to a weaver and he has only woven the border of the cloth, then if he has to weave it again, he has to do so without demanding additional wages. Similarly after the border woven is destroyed and the owner does not furnish additional yarn the wages already paid to the weaver belong to him and the owner cannot demand the wages back.

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606. If (the loan of an article) were taken for a particular purpose or for a definite period of time and a demand were made in the middle and the article is not returned (on demand), the person (taking the loan) would not be made to pay the price with interest.

607. If a person (who has taken an article on loan) does not return it even when requested (to do so) after the fixed period is reached or the purpose (of the loan) is carried out, the borrower should offer the price (to the owner) if the article were destroyed or stolen.

608. If (the borrower or bailee) does not return (the thing borrowed or bailed) even though a demand is made, he should be made to return it with interest.

609. If the owner himself (of the article borrowed as a loan) were (likely) to sustain loss (if the article were not returned when demanded by him), then the borrower should be made to deliver it back even though the time fixed (for the loan) had not expired or even when the purpose (for which the loan was taken) was half accomplished.

610. He, who having taken the loan of an article does not deliver it even on demand, should be restrained and forcibly made to return it and fined if he does not return.

611. That is declared to be (a bailment) called anvadhi which is delivered to another with the words, 'you should hand over (to the owner) in my name in due course of business.

(Sale by one who is not the owner)

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606. The V.M. takes this verse to refer to an article entrusted to an artisan, while, the Sm. C and Vir. say that it refers to a 'yacitaka'. In the middle before the purpose is fulfilled or the time fixed expires. The person has to return it after the time fixed or the purpose is served and has not to pay interest simply because he did not return on demand, and if he does not return it then and the thing is lost he has to pay only the price. This verse is an exception to the rule in v. 608 Compare sec. 159-160 of the Indian Contract Act.

608. This states the general rule to which v. 606 is an exception and v. 607 is another.

609. Compare the more stringent provision in favour of lenders contained in sec. 159 of the Contract Act.

610. The lender had not to resort to the several means of persuasion & c as in the case of a debt; he could at once resort to 'bala' mode and if the borrower did not deliver even then, the king would fine him.

611. Vide not on v. 592 for an example of anvadhi or anvahita and Mit. on Yaj II.67, V.R. notices that Halayudha read 'atramargena'.

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612. A sale, gift or pledge made without ownership should be rescinded.

613. The claimant should first establish the thing (claimed) as his own property by (the evidence of) his kinsmen; afterwards the buyer should establish in order to clear himself his purhcase (as honest and bonafide) by (the testimony of) his kinsmen.

614. The owner of the lost article should proceed to establish his ownership of the article by (the testimony of) his kinsmen; and if he proves that it was not donated, abandoned or sold by him, then he gets it back.

615. (The purchaser) should establish that his purchase was overt or he should produce (before the court) the original (seller). Time for producing the seller should be given (to him) according to the number of yojanas (the seller was away).

616. (The purchaser) should establish his purchase to be overt by (the testimony of) his own kinsmen who are respectable. In this case no other means of proof, whether divine or human, is declared (to be proper).

617. Where the party (the purchaser) after putting forward (the name of) the vendor again relies on overt purchase he must produce the seller and no purpose is served by (the plea of) overt purchase.

618. If he seller cannot be produced (before the court), (the purchaser) should clear his purchase (as overt) when he has justified his purchase (as overt and so legal) he should not be blamed at all by the king.

619. (A purchaser) who does not produce the seller or who does not establish the purchase (as overt) should be made to pay to the owner the price (of the article) as claimed (in the plaint) and a fine (to the king).

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612. The word 'asvami' is separate, is an adverb and is to be construed with the rescission of all three kinds of transactions. Compare Manu VIII. 199.

613. This verse applies to a case where A claims that he is the owner of a thing which be had lost and which he finds in the hands of B who claims to be a bonafide purchaser from C. Here A must prove his ownership of the thing. When he leads such evidence then the purchaser is called upon to prove that his purchase from C was bonafide 'by kinsmen' this is only illustrative and implies all means of proof.

615. The purchaser can escape fine by showing that he made the purchases in the market overt or by producing the vendor.

616. 'No other means & c' - provided such kinsmen are available; but if such kinsmen are not available, then other modes of proof were allowed.

617. This applies to a case where the purchaser at first says he would produce the seller and then tries to prove over purchase. He becomes a hinavadi because he changes his case and so he is made to stick to what he first put forward as his justification.

618 - 619. Compare Yaj. II. 170, Br. p. 335 v. 4, Nar. p. 145 vv. 2 and 4.

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620. If the claimant of an article (alleged to be) lost does not establish that as his by the (the testimony of) his kinsmen he deserves to be punished like a thief in order to prevent the (taking of) undue advantage.

621-623. Where a purchase has been made in the midst of a row of traders to the knowledge of the king's officers, but it is made from one whose habitation is not known or where the vendor is dead (after the purchase), the real owner (of the thing thus sold by one not owner) will recover his own chattel after paying half the price (to the purchaser); in such a case both (the real owner and the purchaser) lose a half on account of the rule of law (in such matters). Purchase from a man who was unknown (or whose habitation was unknown) is a fault and so also is being careless about preserving one's goods; both these are declared by the wise to cause loss of property.

(Partnership)

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620. 'Prasanga' is explained as 'atiprasanga' by the Sm.C Claimants must be deterred from advancing false claims and hence severe punishment is prescribed. Compare Br. p. 335 v. 5. The purport of all these rules is : If A sells to B an article and C comes forward as the real owner and complains that A had no ownership, C had first to prove his ownership. If he failed in this he was fined (verse 620). If he proved his ownership, then the purchaser B had either to prove a sale in market over or produce the seller; if he produced the seller then he had to give up the thing to the rightful owner and claim his money from the seller. If he could not produce the seller owing to distance, he had to prove over purchase; if he did so, he would be free from blame, but he would have to deliver the article to the owner. If the purchaser could not prove even overt sale, then he had to deliver the article to the owner and to pay a fine to the king and he lost his money also, Vide Kaut. p. 189 (text) for very similar provisions.

621 - 623. 'In the midst of a row of traders'. This means that the purchase was not made in secret. 'To the knowledge of & c'. This means that the purchase was in an open market held under the supervision of state officials; even when a purchase was made in the open market and it was proved that the article belonged to another (and not to the vendor), the purchaser, if unable to produce the vendor because his address was not known or because he was dead (after the sale), had to give up to the real owner the article on receiving half of the price. Both were equally guilty; the purchaser purchased from one whose habitation was not known and the owner was not vigilant enough to keep his property. The law aids the vigilant and not the negligent. These verses lay down the doctrine of 'caveat emptor'. These rules show that in order to be a valid and legal sale every sale had to be in open market on a market day and at a proper hour. Vide Yaj. II, 168, Nar. p. 145 vv. 2-3. These three verses are Br. pp. 335 - 336 vv. 7-9.

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624. When several persons, either traders or artisans, join together or when unseparated brothers (work together or put ancestral funds together), the profit obtained by these is to be enjoyed in equal shares when they separate.

625. They must each of them pay without fail in accordance with the agreement (made by them) for merchandise (bought for being sold), food charges, other charges (like tolls), losses (due to bad debts), freight and supervision of valuable property.

626. Of those who jointly deal in (or lend for profit) gold, grain or liquids and the like, the gain shall be the same as their shares (in the joint funds) whether equal more or less.

627. If one out of many partners, being approved (i.e. authorised) by all, alone gives property or contracts a debt, it will be deemed to be done by all.

628. A debt should be given to agnates, other relatives and friends only after taking a pledge from them (as security) and to others (a debt should be advanced) after taking a surety and under a document and before witnesses.

629. Gold may be advanced at one's will, but grain and liquids should be advanced for a period (definitely fixed at the time of advance). One should lend and recover according to the custom of the country.

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624. This title is so called because there is something undertaken (samutthana = undertaking) by several persons joining together (sambhuya = having joined together). In the dharmasutras there is hardly any treatment of this topic. It was therefore one of the titles of law that was developed last. In the Aitareyabrahmana (IX.1) there is a reference in the fact that in the booty obtained in a battle the warrior was entitled to 3/4 ths and the charioteer was given 1/4 only. Vide Yaj.II. 259 and Nar. p. 124, v.1 (for definition) and Br. p. 340 v. 27 for the meaning of 'silpin' - as one who works in gold, silver - thread, wood, stone, leather & c.

625. This is the same as Nar. p. 124 v. 4.

626. This is Br. p. 337 v. 4. Vide Br. p. 336 v. 3, which says that the expenses, the labour and the profit of each partner shall be according to the original share of funds contributed by him.

627. 'Gives property' i.e. enters into sale transactions on behalf of the partnership. Most digests read 'karanam karayet' (he passes a document), which is a good reading and was probably changed into 'rnam ca', 'as' 'ana' in the sense of document was not quite well-known. Compare section 251 of the Indian Contract Act (of 1872). This is the as Br. p. 337 v. 5.

628. This verse lays down that a partner, when lending out partnership money to his relatives and friends, should show more care by demanding a pledge or mortgage than when dealing with other people.

629. 'At one's will'. A partner may fix a period for repayment of money or gold or may not fix it at the time of making the advance. Compare Br.p. 337 v. 18.

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630. What was given (or lent) by several (partners) jointly must be recovered by them in the same way (i.e.jointly); any one alone (from among them) should not demand it (from the borrower); if he does so he loses the gain (or the interest).

631. He who saves from thieves or from water or from fire any chattel should be given a tenth part of it; this is the rule in all disputes.

632. If artisans (of four grades of skill) viz, apprentices more advanced students, experts (in that craft) and teachers (are employed together in one undertaking), they shall receive one after another in order one, two, three and four shares (of the profit of that undertaking).

633-635. That booty which is brought by a pillaging party at the command of their king from an enemy country should be divided by them according to the (settled) rule (on this point) after setting aside a tenth part for their king.The head of the pillagers should get four shares from that (booty); the specially intrepid (among the pillagers) should get three shares, the capable (fighters of the party) two each, and the rest should each get one share. If any one from among them while they are scattered about for pillage is caught, then they should contribute according to their shares towards the payment of the ransom (that the person caught) had to pay for securing his own release.

636. This very rule has been declared by the good in the case of dancers; one who keeps the time takes a half share, the singers take equal shares, the principals (in the troupe of dancers or musicians) are entitled to two shares each; this is (the rule) as regards those who undertake (any work) jointly.

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630. This is same as Br. p. 339 v. 19.

631. Compare Nar. p. 125 v. 6, Yaj. II. 260 and Br. p. 338 v. 10. That partner who saves partnership assets by his own single-handed efforts from loss due to some calamity gets 1/10 of the price as his special reward; 'in all disputes' - this rule applies even to property not belonging to partnerships.

632. Vide Manu VIII. 210 and Mit. on Yaj. II. 265 for an unequal distribution of the one hundred cows offered as 'daksina' the jyotistoma sacrifice among four principal priests and the three assistants of each of them. Vide my notes to V. M. p. 365 for complete explanation. The purvamimamsa had a special discussion on this topic (Jaimini X, 3.53-55).

633 - 634. Compare Br. p. 341 vv. 31-32. Br. says that the king of the free booters should get a sixth part of the booty (instead of 1/10 as Kat. does). The Sm.C. explains that Brhaspati's verse applies to a very powerful enemy, while Kat. refers to a weaker one; while the V.R. explains that 1/6 or 1/10 depends upon the proximity or otherwise of the country.

636. Br. p. 341 v. 30 has the first two halves and reads 'adhyardham' (a share and half).

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637. This is the rule of decision as regards all, who engage in a joint undertaking without previously defining their shares such as merchants husbandmen, robbera or artisans.

(Non-rendition or Resumption of Gift)

638-639. Wives and sons, if unwilling, should not be made the subjects of sale or gift; wives, sons and one's entire wealth could be employed by a man himself (for any purpose of his own); but in times if adversity one may sell or gift away (even one's wives and sons), but he should not proceed to do so otherwise (i.e.in the absence of adversity). This is the definite conclusion of the sastras.

640. Whatever belongs to oneself which is over and above of what is required for maintaining one's family may be the subject of gift, except one's house or one's entire wealth; what is other than this cannot be given away.

641. The same as 471 above.

642. He, who having voluntarily promised a gift to a brahmana does not deliver it, should be made to pay it as a debt and should be awarded the lowest amercement.

643. A man is born for hundreds of crores of kalpas in the form of lower animals if he does not deliver what he has promised or if he takes back what is donated.

644-645. where a reward is indicated (i.e.promised) for finding out what is unknown, that is declared to be wagest when if (the gift promised) is obtained by the finding ou, (of the thing unknown). That is known as a gift obtained through gratitude when it is obtained in the following manner viz. (in return) for protection from danger, for guarding (the property of a minor &c) and for effecting some desired object (such as marriage).

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638 - 639. Verse 638 refers to cases where there is no adversity. These verses are in conflict with 471 above. The Sm. C and Par. M. explain 471 by saying that it applies where a man has an only son, while these apply where a man has several sons. Vide note on 471 above. Nar. p. 128 v. 4 and Br. p. 342 v. 2 and Yaj. II. 175 declare that son and wife cannot be given away, but the Sm.C explains these also in the same way. Compare Kaut. p. 189 (text).

640. Compare Nar. p. 128 v. 6 and Br. p. 342 vv. 3-4. Sm. C explains that this verse of Kat. applies only where there is a single house and that if there are more houses than one acquired in one of the seven modes of lawful acquisition (as laid down in Manu X. 115) a gift could be made of one of them.

642. Note v. 566 above. Gautama V. 21 made an exception that if a gift be promised to one (even a brahmana) who does not follow the rules of life as required by religious texts, it should not be delivered.

643. For the duration of kalpa vide note on v. 10.

644-645. Nar. p. 129 v. 8 and Br. p. 343 v. 8 speak of seven and eight kinds of valid gifts respectively, two of which are 'bhrtih' and 'pratyupakaratah'. Kat. in these two verses explains those words. 'Bhrti' seems to mean a reward promised for finding out a lost article or an unknown offender & c.

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646. To him who will rescue me who am in danger of life from this state, I shall give my entire wealth; even when this (promise) is uttered, it cannot be so.

647. What is promised through lust or wrath or by those who are dependant (like servants or slaves), by those distressed, by those who are cowards (or are frightened), by lunatics and by those who are infatuated or through misapprehension or joke, may be taken back (or withdrawn).

648-649. What is promised as a bribe (to a man) for accomplishing a certain object need never be given, even though that object be accomplished. But if it (the bribe) be already paid, it should be forcibly returned (to the promisor) and a fine eleven times (as much as the bride should be levied); this is what the followers of Garga and Manu say.

650-651. That is said to be 'utkoca' (a bride) which is obtained by these viz by giving information about a thief, about a felon about one who breaks the rules of decent conduct, about an adulterer, by pointing out those who are of bad character or by spreading false reports about a person. In these cases the person offering the bride is not to be fined, but the intermediary deserves blame.

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646. If a man promises to give all his wealth for being freed from a dangerous situation, the man who saves him from that situation cannot get his whole wealth. 'It cannot be so'. It would not be the property of the man who saves, it cannot be a valid gift.

647. 'Misapprehension' - 'vyatyasa' is so translated. It means, as V.R. explains, 'to give to A when B was meant to be the donee, or to give an article X when Y was intended to be given'. The general rule as stated by Yaj. II. 176 is 'what is promised must be given and what is given should not be taken back'. This and the following verses give the kinds of promises that need not be kept and gifts that are invalid. Compare Gautama V. 22, Nar. p. 130 vv. 9-10, Br. p. 343 vv. 9-10. As regards gifts by 'arta' distressed there was a special rule in favour of their validity as embodies in v. 566 above.

648-649. 'Utkoca' (or utkoca in the muasculine) is defined in vv. 650-651. 'Eleven times' - Eleven times the bribe was the fine to be paid to the king by the person accepting the bribe. These two verses are quoted in Shri Sitaram v. Shri Harihar I.L.R. 35 Bom 169, at p. 180 where it was held that if an adoption was included by a bribe given to a widow, the bribe was in illegal payment and cannot support a sale or gift.

650-651. 'Giving .... a thief' - by suppressing information about a person who is really a thief or threatening an innocent person that he would be reported a thief; 'asatyapravartanat' may also mean 'by offer to procure false witnesses'. The intermediary' - The person who approaches both the giver and the taker of the bribe was fined and so was the receiver of the bribe fined. But the person who offered the bribe was let off, in contrast to the modern provisions of the Indian Penal Code in sec. 161 and the following sections read with sec. 109.

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652-653. If a man who is appointed to (do) certain duties (by the king) obtains a bribe, he should be made to return the whole of the money (given as bribe) and to pay a fine eleven times as much (to the king). If a person who is not appointed to do a certain duty obtains a gratification which is in the nature of return (or reward) out of gratitude for (a kind) deed, he incurs no blame.

654. same as 566.

655. What is mortgaged or sold through deceit or what is gifted or accepted through deceit or wherever (the king or judge) sees fraud, all such transactions he should annul.

(Non-payment of wages)

656. When no wages are settled the trader, the cowherd, the husbandman should get a tenth part respectively of the profit, of the milk and of the crops.

657. He who having begun a work does not finish it at all should be forced (by the king) to finish it; he deserves to be fined if he does not do it.

658-659. A palanquin-bearer causing an obstacle at the time of starting should be made to pay double the wages (settled). (A servant) should not be made to pay when a thing (entrusted to him) is plundered by thieves or is burnt or carried away by a flood.

660. (The master) who abandons on the road (while on a journey) his servant when he is tired or afflicted with disease should be fined the first amercement if he does not wait for three days in the (neighbouring) village (to look after his servant).

661. when the goods (or merchandise) are attached or carried away on the road, (the servant) should get as much wages as are proportionate to the distance already traversed.

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656. This verse should have been placed under 'non-payment of wages'. The trader who sold as an agent a thing for the owner should get a tenth part of the profit made in the sale by the owner, the cowherd employed to look after the cattle and to milk them is to get a tenth of the milk, and the field - labourer 1/10 of the crops (land, seed and implements being furnished by the owner). Compare Yaj. II. 194 and Nar. p. 139 v. 3.

657. The Sm. C. says, following a verse of Vrddha - Manu that the fine would be two hundred karsapanas. Compare Ap. Dh. S. II, II. 28. 2-3 which provides for a field - labourer or cowherd giving up his work.

658 - 659. 'Palanquin-bearer' - This is only illustrative and includes every one (like an armed escort). 'Obstacle' simply means 'refusing to start' at the time settled. Compare Nar. p. 148 v. 8 and Yaj. II. 197.

661. 'Attached' - by the king's officers (such as toll-gate keepers); 'carried away' by robbers & c. This applies to a case where a lump sum is fixed as the wages for carrying certain merchandise for a certain distance.

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662. He who having hired elephants, horses, bullocks, asses, camels and the like does not return them though his work is finished shall be made to return them together with the hire (until the date of return).

663. He who having taken on hire a house, a water (tank) market or the like, does not return it to the owner (even when his work is done) should be made to pay the hire (till the date of return).

(Dispute between master and hardsman)]

664. When (cattle) enter into fields, parks, reserved pastures, houses and cowsheds, they should be seized or beaten. This is the view of Brhaspati.

665. In the case of beating of the beasts of the lowest, middle and highest class, if their owner raises a dispute (the king or judge) should there prescribe the fine.

666. Before the crops have grown, (the owner) should construct a high paling (surrounding them). Animals (or deer) when they have once tasted the sweet (crops) can be warded off only with great difficulty.

667. He (the king) should make the (owner of a trespassing) cow pay a fine of a fourth pana, (the owner of) a she-buffalo two quarters of a pana; so also the fine in the case of goats, sheep and calves is declared to be a fourth (of a pana).

(Violation of compacts)

668-669. Members of groups while strictly adhering to their individual

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663. 'Water' - means 'a water vessel' according to the Sm. C and Vir; V.R. seems to take it as referring to water tank dug by the owner.

664. Compare Ap. Dh. S. II. II. 28 5-6. The Sm. C says that the calves should be seized and the big bullocks should be beaten.

665. 'Raises a dispute'. If the owner of the trespassing beasts pleads that the beating was more severe than necessary or allowed by the sastras and proves his connection, the owner of the field trespassed upon was fined according to his fault.

666. Compare Manu VIII. 239, Nar. p. 164 vv. 40-41. This verse applies to a field which is near a forest, while Nar. p. 164 v. 41 applies to a field which is near a public road.

667. 'Pana' here means 'karsapana'. In the various smrtis various fines are enumerated which apply to various sets of circumstances. Vide Gautama XII. 19-23, Nar. p. 161 v. 31, Yaj. II. 159 - 160, Manu VIII. 241.

668-669. Compare Yaj. II. 186, Br. p. 347 v. 5, Nar. p. 153, v.2. The Mit. mentions among compacts made by groups in a village the rules about pastures, about the distribution of water and preservation of temples and among royal edicts (not in conflict with dharma) such as giving food to travellers coming to a village, not selling horses to persons from an enemy country. Br. p. 348 vv. 11-12 give as examples of agreements made by groups and reduced to writing the following : 'The construction of a house of assembly, a shed for giving water to

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duties (as laid down in the sastras) should perform all their actions according to the conventional rules of their various groups. If royal edicts (or commands) that are issued are not in conflict with one's duty (as laid down in sruti and smrti), one should be the king's order first perform those acts only.

670. That wicked man who would not observe the rules put in vogue by the king should be censured and fined as he sets at naught the king's order.

671. He (that member of a group) who opposes what is reasonable, who gives no scope to the speaker (when the group meets) or who speaks what is absurd, should be made to pay the first amercement.

672. He who is guilty of sahasa (a heinous crime), who causes a split (in the group) or who destroys the wealth belonging to the group - all these should be proclaimed to the king and destroyed (by the group); this is the view of Bhrgu.

673. He who can eat in the same vessel or in the same line with another should be fined if he refuses to do so without pointing out the fault (in him that prevents such commensality of food).

674. Whatever debt was incurred (by the spokesmen of groups) as for the (purposes of) the group but was mis-appropriated (lit. eaten up) by them or was applied to their individual purposes must be paid by themselves only.

675-676. Those who (subsequently) enter into groups, corporations and classes become equally entitled to the property and liable to the debts (of the groups) previously (acquired or incurred). One who is inside a group is entitled to a share in the food, the partible things (like grain), in the charities, and religious duties (of the group), but one who has gone out (of a group) is not entitled to a share.

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travellers, a temple, a tank, a garden, relief to helpless people, performance of sacrificial acts, a common path or defence shall be undertaken by us in proportionate shares'. The Sm C. says that if a king's order (e.g. a field or house donated by the king should not be sold or mortgaged) is opposed to the general rules of dharma, then it impliedly follows from the above verse (669) that it need not be obeyed.

670. The Sm. C. says that this applies only to such orders as are not opposed to the rules of sruti and smrti.

671. For carrying on the objects of the group, two, three or five persons were to be appointed as advisers and their advice was to be followed by all. Vide Yaj. II. 188, Br. p. 347 v. 10.

672. Compare Yaj. II. 187, Manu VIII. 219 - 220 and Br. p. 348 v. 16 and Nar. p. 155 v. 6. Heavy sentences are meant for persistent defiance.

673. Persons of the same sub-caste sit down to meals in the same line. If any one refuses to do so, that is a great dis-respect. He can do so only if he shows some ground which makes the man liable to be excommunicated by the caste.

674. This is an exception to the general rule in 677.

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677. Whatever is obtained by them (i.e. by the advisers of groups) or is saved by them or whatever debts are incurred by them for their group and whatever they obtained through the favour of the king should be equally shared by all (members of the group).

678. a group of several inhabitants of the same city is called 'naigama' a troop of persons bearing various kinds of weapons are declared to be 'vrata'.

679. A group of merchants and the like is declared to be 'puga' and those are said to be 'pasandas' (heretics) who have forsaken the (rules of the) order of ascetics.

680. The corporation of brahmanas is called gana and those who subsist by following some craft are called craftsmen.

681. The groups of the followers of Arhat (i.e. the Jainas) and of the

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677. Yaj. (II. 189 - 190) says that when the principal men of a group wait on the king the latter should listen to them and send them away with honours and gifts and that whatever they obtain from the king they should hand over as the property of the group. This is 'rajaprasadalabdha'. The principal men of a village represented the village in a boundary dispute. The additional land they may obtain belongs to the whole village. This is 'whatever is obtained & c'. Compare Br. p. 349, vv. 22 and 24.

678. Narada has a verse 'पाषाण्डनैगम - श्रेणिपूगव्रातगणादिषु ।। संरक्षेत् समयं राजा दुर्गे जनपदे तथा' (Nar. p. 153 v. 2), (Nar. p. 153 v. 2), the various terms in which have been differently interpreted by different commentators. Kat. explains in his own way most of these terms. Yaj. II. 192 is a similar verse. The Mit. explains 'Naigamas' as 'sects like the Pasupatas who though not accepting all the dogmas of orthodox Brahmanism accept the Vedas (Nigama) as authoritative'. The Madanaratna explains 'naigamah' as 'merchants who form a caravan'. The word 'vrata' occurs even in the Vedas and means 'a collection or multitude'(Rg. I. 163. 8, VI. 75. 9, IX. 16. 7 and Vaj. Sam. III. 55). The Mahabhasya on Panini V. 2.21 (vratena jivati) explains 'vrata' as a group of men of several castes and several occupations who make a living by relying on their tall bodies'.

679. The word 'puga' occurs in the Kausitaki-brahmana 16.7 (pugo vai Rudrah) where Rudra is called puga. Panini (V.2, 52) strings together puga, gana and sangha. Medhatithi (on Manu IV. 30) explains 'pasandi' as 'Bauddhas and others who do not recognise the Vedas'. Mit explains it similarly; 'puga' is explained by the Smr. C as 'elephant and horse riders', while the V.R. says that some explain it as meaning 'multitudes of persons of various castes whose means of subsistence are not fixed'.

680. The Mit. on Yaj. II. 192 explains 'gana' as 'an assembly of persons armed who subsist by following one avocation'. 'Gana' occurs in the Vedas (Rgveda I. 14.3, I. 64, 12 and Tai. Sam. V. 4, 77 speaks of the Maruts as formed into gana).

681. 'Sangha' is well known in Buddhist works. 'Buddha, Dharma and Sangha'

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followers of Buddha are styled sangha and the companies of candalas and svapacas (those who eat dog-flesh) are called gulma.

682. Ganas, heretics, pugas, vratas and srenis (corporations) and all others who constitute groups are styled vargas (groups). This is what brhaspati says.

(Repentance after purchase and sale, or repentance after purchase or non-delivery after selling).

683. He, who after having purchased a thing and having brought it under his control does not receive it or he who does not deliver it as free from defect (such as being wet), should pay a tenth part of the price to the other (side) and would obtain his property.

684. When the time of employing a thing for the purpose (for which it was purchased or sold) has not arrived then (the king) should not make (the defaulting party) pay (the tenth part of prices) though receipt (of the thing purhcased) or delivery (of the thing sold) is not made. this is the rule up till the 10th day; beyond that there is no (recognition in law of repentance).

685. In the case of land (repentance is allowed) to the seller up to the tenth day, the same is the time for the buyer; twelve days are allowed to sapindas (for repentance in the case of lands), lesser time than this (is allowed) in other cases.

686. If after purchasing (an article) the purchaser repents and does not receive the article such as milch cattle though it has no defect at the time (of repentance), he should offer a tenth part of the price (to the seller).

687. If the purchaser, after purchasing an article, begins to repent when it

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- these constitute their great trinity. Kaut p. 12 speaks of sangha of Vrsnis perishing through their attempt against Dvaipayana.

682. 'Sreni' occurs in Rg. I. 163. 10 (where it is said that 'like hamsas they work in groups'). The Mit. explains that a 'sreni' is a guild or corporation that follows the same trade or craft. Compare Gautama XI. 21 where it is said that husbandmen, merchants, herdsmen, money-lenders and craftsmen are authority as to the usages of each 'varga' (group). Vide v. 349 above which is similar.

683. This applies to one who having purchased a thing repents of it and so does not accept delivery or one who having sold a thing does not deliver it; compare Nar. p. 149 v. 1 and p. 146 v. 1.

684. When a cow or bullock is purchased for milk or carrying burdens and the purchaser refuses to receive the cow or bullock before that time arrives or the seller refuses to deliver, he had not to pay even the 10th part of the price. This is a special case. Compare Manu VIII, 222-223 for the period of ten days for repentance. Nar. (p. 150 vv 2 and 3) allows a shorter period for repentance. The Par. M. explains that the shorter periods apply to things that are lost or deteriorate by use even for a short time.

686. V.R. explains 'at the time' as 'at the time of paying the price'; while the Sm. C. explains as above. According to V.R. this verse applies where a thing was purchased without examination.

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has been delivered to him, then a wise man after giving a sixth part of the price should give up the thing purchased.

688. If what was purchased without being properly understood (by examination) is later on proved so have defects, that purchased article may be returned to the owner within the time (prescribed for examination) but not otherwise.

689. Where (a seller) having shown an article free from defects (as the one to be sold) delivers one that is full of defects, he should be made to pay double the price (to the buyer) and an equal fine as punishment (to the king).

690. If an article were to be burnt or carried away (by thieves) the loss falls on the seller only, when having sold it he does not deliver it.

691. And where the purchase does not accept the article purchased by him when it is being delivered to him, then the seller, if he sells it another would not be guilty of any fault.

692. What has been sold by one intoxicated or insame or for inadequate price, or through fear or by one who is not his own master or by an idiot should be relinquished (by the purchaser); it still belongs to him (the seller).

693-694. One (the purchser) should examine milk animals for three days, a beast of burden for five days and the examination of pearls, diamonds and corals may be for seven days. Half a month (may be allowed) in the case of male bipeds (for examination) and twice as much in the case of females; ten days for all kinds of seeds and one day for iron and clothes.

695. If some blemish in the article purchased is seen before the periods

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687. V.R. says that the former verse applies where the thing purchased has not yet come into the custody of the purchaser. The Vir. says that this verse (viz. payment of 1/6) applies where the thing purchased is such as perishes by use.

688. An article though full of defects cannot be returned after the time prescribed for examination. This embodies the doctrine of caveat emptor. Vide. vv. 621-623 above.

689. Compare Br. p. 350 v. 4

690. Compare Yaj. II. 256, Nar. p. 148, 6.

691. Compare Yaj. II, 255, Nar. p. 148 v. 9 Yaj. provides that the loss on resale falls on the defaulting buyer, for which compare sec. 107 of the Indian Contract Act.

692. The last quarter may be construed 'that man (the purchaser) will have to relinquish it'. Compare Br. p. 350 v. 5.

693 - 694. These are the same as Nar. p. 150 vv. 5-6. Compare Yaj. II. 177 who compresses in one verse the contents of these two verses. 'Male bipeds' means slaves. This verse applies where the thing is purchased without examination. If an article is purchased after exmination it cannot be returned. Vide Nar. p. 150, v. 4 and Br. p. 350 v. 3.

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(specified above) expire, the article should be returned to the seller and the purchaser will get back the price (paid by him).

696. When a garment is worn out by use, is in a tattered condition and soiled, if it is purchased even with all these (patent) defects, it cannot be returned to the seller.

697. If a thing jointly owned (by several) were purchased, a single vile man cannot deliever it (to the buyer). It should not be received nor taken nor should it be sold.

698-699. Where a purchaser after purchasing a chattel for a price thinks that he has made a bad purchase he should return it to the seller the very same day without looking at it.The purchaser returning it on the 2nd day should offer (to the seller) a thirtieth part (of the price) and double of this (i.e.15th part) on the third day. After that (the third day) the article belongs to the buyer himself (and cannot be returned).

700. After dividing the value of a thing into five parts, three parts are declared to be the price of it, the fourth part is the profit and the fifth is meant for truth.

701. A compromise and an exchange, if they are unequal, can be annulled for three generations and a sale by order can be annulled up till the 10th year.

702. The conclusion is that there can be no lawful sale or purchase of land

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695. Vide Br. p. 350, v. 6 for the same verse.

696. This is the same as Nar. p. 150 v. 7

697. Property in a thing belonging to several persons jointly cannot pass by the act of one alone without their consent.

698. 'Without looking at it' - without stopping to examine it. If we read 'aviksatam' it means (he should return it) 'without any damage to it' (and if some damage has already resulted then with compensation). Both 698 - 99 are the sama as Nar. pp. 149 - 150 vv. 2-3.

700. This verse applies according to Saras to trade in saffron. It is somewhat obscure. If 3/5 ths of the value of a thing in the eyes of its owner are offered, it is an adequate price. 1/5 of the value really corresponds to the profit which the seller wants to make and the other 1/5 is what he wants for holding the purchaser to his transaction i.e. it represents what the seller thinks should be compensation to him if the sale goes off.

701. This is cited by the Saras as from Vrddha Katyayana. An ajnakraya appears to be a purchase by order of the king of a man's land for recovery of the land revenue or other state dues. Vide v. 704 below. The Saras quotes verses from Bharadvaja and Sumantu to the effect that a compromise, an exchange and a partition can be resiled from for ten days even when it is fair, but up to nine years when any one of them is unfair. Thus the rule about repentance for ten days in the case of sales is applicable to other transactions also.

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without securing the approval of the kinsmen (of the seller and buyer) who are neighbours (i.e. owners of neigbhouring lands) and who are respectable men.

703. In the same village a period of ten nights (for vetoing by kinsmen the sale made by one of the kinsmen) is prescribed; when (land sold is) in another village the period is three fortnights when in another country six months, when the language (of the kinsmen vetoing) is different, a year.

704. If the man liable to pay the (land) tax absconds along with the surety for the tax the members of the (royal) audience hall should sell the land of the taxpayer for recovering the tax.

705-706. What is decided upon by the neighbours gathering together who know (the land &c. and its value) and who are afraid of sin as the price of fields, gardens houses, and the like and of bipeds and quadrupeds, that is said to be their proper price. Dividing that price into eight parts, any price (offered by a buyer) which exceeds by 1/8 th or is less by 1/8th (of the price so decided) is to be known as improper.

707. All that (i.e. a sale for inadequate price) can be anulled even when a hundred years have elapsed. In purchases and sales (a thing) should be sold for that price which the article deserves according to the rules (of sastra).

708-709. If when a purchase or sale is effected and when the price is less by a fourth, fifth, sixth, seventh or even eighth part (of the proper price arrived as laid down above), all that becomes (a transaction) for an inadequate price and though carried out must be (regarded) as not done (i.e. as invalid). But a purchase is not at all defective when it is (for a price) a little less than (the price arrived at as above).

710. But when a purchase or sale falls short as to price by that part, then

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702. The Mit. on Yaj. II. 114 quotes a similar verse "स्वग्राम ज्ञातिसामन्तदायादानुमतेन च । हिरण्योदकदानेन षड्भिर्गच्छति मेदिनी ॥" and remarks that the consent of the villagers, kinsmen and coheirs was to be taken simply for the purpose of giving notice to them of the intended sale and of neighbours for avoiding disputes about boundaries in future. So Kat must be interpreted in the same sense.

703. This verse seems to lay down the periods during which kinsmen could prevent a sale by one of them becoming perfect by opposing it and withholding their consent.

706. Supposing the proper price of a house decided upon by the kinsmen is 800 rupees, then any price below 700 is inadequate and any price above 900 is improper or too high.

709. A purchase for 750 when the proper price arrived at under v. 705 is 800 Rs. is good.

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the transaction, though carried out, is declared by those who know dharma to be invalid.

711. A sale of 'uktalabha' kind will be valid if it is for more than half (the price of the thing as settled by the rule above) provided more than ten (years) have elapsed (after the period fixed in it). An avakraya (transfer for hire by a bailee) becomes valid after enjoyment for three generation and a purchase by mutual agreement (between the seller and buyer) becomes valid at once.

712. The purchase of an article may be rendered valid even when much less than the proper price has been paid; but (the balance of the price) would have to be paid with compound interest if there is no agreement (as to the time when the balance of the prices is to be paid).

(Breach of a contract of service)

713. That master, who would not teach (his apprentice) the craft (for learning which he is apprenticed) and employs him for doing other work, should be fined the first amercement and the apprentice should return from him.

714. An apprentice, although he may have (thoroughly) learnt (the craft),

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710. 'By that part' i.e. by more than 1/8th of the proper price.

711. An 'uktalabha' seems to be the same as the mortgae by conditional sale defined by sec. 58 (C) of the Transfer of Property Act. The Saras. p. 324 quotes the following definition 'किञ्चिद्य द्रव्यमादाय काले दास्यसि ते क्वचित् । नो चेन्मूलमिदं त्यक्तं केदारस्येति यः क्रयः । स उक्तलाभ इत्युक्त उक्तकालेप्यनर्पणात्. Avakraya is a transaction where-by a bailee transfers to another an article for hire e.g. where a washerman to whom a garment had been given for washing gives it to another (than the owner) for a time in return for hire. Vide Mit on Yaj. II. 238 ('Vikrayavakrayadhanayacitesu panan dasa') for definition of avakraya. Panini (IV. 4. 50) uses the word 'avakraya', but it is explained as the dues recoverable by a king from a market & c. Gautama XII. 39 uses 'avakrita' in the sense of 'what is purchased, but the price of which is altogether unpaid or only partially paid'. This meaning may suit in this verse. If a man purchases a thing without paying the price, ownership in the thing is not perfect for three generations.

712. Compound interest will be calculated for the balance, when no time has been fixed; if a time has been fixed for the payment of the balance, then till that tme only the balance has to be paid. But even within that time of a demand is made, there is compound interest calculated from the date of demand.

713. 'Abhyupetya' means 'after having made an agreement, after having accepted and 'asusrusa' means 'not serving or waiting upon'. Compare Nar. p. 133 v. 17. According to Narada (p. 131 vv. 2-3), there are five sorts of attendants, pupils (sisya), apprentices (antevasin) hired servant (bhrtaka), supervising official (adhikarmakrt) and slave. An apprentice is one who, desirous of learning a craft or art (like dancing and singing), resides with a master with the consent of his relations, having fixed the duration of his apprenticeship (vide Nar. p. 133 v. 16).

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should indeed do (at his teacher's house) the work undertaken by him. The fruits of the work that he may do there (in the teacher's house) belong to the master himself.

715-716. Bhrgu holds that (a man) becomes a slave as he surrenders himself when free (to another's will) just as the wife (surrenders her person to the husband). (Members) of three varnas can become slaves but a brahmana can never be a slave. Slavery in the case of the (three) varnas viz, ksatriyas, vaisyas and sudras is in their direct order and not in the inverse order when they surrender their independence.

717-718. Even one of the same caste (i.e. a brahmana) should not make a brahmana work as a slave, since the glory (lit.lustre) of a king becomes tarnished by the slavery of a brahmana. A man who is ksatriya, vaisya or sudra in his duties may occasionally do the work of a slave for a man of the same caste (as his own), but a brahmana should never be made to do the work of a slave. This is the view of brhaspati.

719. A brahmana may, if he chooses, do work of an inferior kind for another brahmana who is possessed of (high) character and vedic learning but even then a brahmana should not do what is impure work.

720. Sweeping faces and urine, shampooing (the master) when naked and taking charge of (or seizing) bulls and the like-these should generally be done by the issue of female slaves.

721. Where the three varnas, brahmana and the rest become apostates

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714. Even if a pupil masters the technique of the craft quickly, he had to remain with the teacher till the period of apprenticeship agreed upon expired. Compare Yaj. II. 184 and Nar. p. 134 v. 19.

715-716. 'In the direct order' - a sudra could be the slave of any master of the four castes, a vaisya of any master of the first three castes, but not of a sudra master, a kstriya could be a slave of a brahmana or ksatriya master but not of a vaisya or sudra master. Slavery is here assimilated to anuloma marriages. Compare Nar. p. 137 v. 39 and Yaj. II. 183 (latter half).

719. A brahmana could not be made to work as a slave even by a brahmana, but a brahmana may of his own will do menial work for another learned brahmana as an act of good will (as paropakara) and not for wages, but he was not to do even for a brahmana impure acts like sweeping the gate, privy or road, shampooing private parts & c. Narada divides occupations into subha and asubha, which latter are to be done only by slaves. Vide Nar. pp. 131 - 132 vv. 6-7 for impure acts.

720. V.R. explains 'nagnatvaparimardana' as 'helping to put on clothes when the master is naked'.

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from the order of ascetics, the king should banish the brahmana from the country and should make the ksatriya and vaisya work as a slave.

722. One may make the sudra work as a slave, whether he be purchased or not purchased; the creator himself created him for slavery.

723. When a master has sexual intercourse with his female slave and the latter then gives birth to a son, the master looking to the seed (which was his own) should make the female slave free from slavery together with her progeny.

724. The wealth that a slave has belongs to the master (of the slave). But the master is not entitled to that money which (the slave) got by selling himself openly.

725. A women who is not a slave, if she is married by a slave, becomes a slave, since her husband is her lord and the husband is dependent on the master (whose slave he is).

726-729. If one would take (i.e.buy) a brahamana woman (as a slave) or

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721. Compare Nar. p. 137 v. 35 and Yaj. II. 183, who declares that one who has fallen from the order of asceticism becomes a slave of the king till his own death. One who does not do the duties appropriate to a samnyasin is 'pravrajyavasita' according to the Mit. and becomes a slave if he does not perform the proper prayascitta (penance). Daksa declares that he who is an apostate from asceticism should be branded with a red hot piece of iron resembling a dog's foot, and then banished. If the king is himself a vaisya or sudra, this verse shows that one who was a ksatriya and became an apostate may thus become the slave of a vaisya or sudra (king). So far this is an exception to v. 716.

722. Manu VIII. 413 reads 'brahmanasya' for 'svayameva' in this verse.

723. Compare Kaut p. 183 (text स्वामिनस्तस्यां दास्यां जातं समातृकमदासं विद्यात्). 'Looking to the seed'. The Sm. C explains this as 'looking to the fact that she conceived from him and that otherwise his own child would be a slave'. V.R. says that this applies when the master has no son. For the method of freeing a slave, vide Nar. p. 138 vv. 42-43. This verse is referred to in I.L.R. 7 Mad. 407 at p. 412.

724. Compare for the first half Manu VIII. 416 (which is the same as Nar. p. 138 v. 41) and Mahabharata Udyogaparva 33-64 (which is slightly different). The reading of the Vivadacintamani 'prasada-vikrayat' gives the best sense, meaning 'what the slave gets through the favour of his master and the price he got by selling himself do not belong to the master'.

725. A woman may be free and marry a slave, then she becomes the slave of the same master. A woman though a slave may not be the slave of that master whose slave her husband is. If her master consents to the marriage then he loses his ownership and she becomes the slave of another. But if the marriage takes place without her owner's consent, then she does not cease to be his slave and her slavery to the husband's master is only indirect.

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would sell her, the king should annul that (transaction) and all of them (buyer, seller &c) would be liable to pay a fine. He who enslaves a woman of a respectable family that took shelter with him at her pleasure or who transfers her to another as a slave should be fined and that transaction should be anulled. He who enjoys the nurse of his child or another woman who is not his slave or the wife of his servant as if he were a slave, should be fined the first amercement. He who though well off and not involved in any misfortune desires to sell a female slave who is faithful and who weeps bitterly should be fined two hundred.

730. He who being not his own master offers himself to another (as a slave) saying I am thine he (the slave) would not secure his desire and his former master would get him back.

731. One who becomes a slave because he is an apostate from the order of ascetion cannot be freed from slavery by anybody. One who was maintained during a famine is freed from slavery if he gives a pair of oxen.

(Boundary disputes)

732. There are six causes of land disputes, viz larger extent of share or deficiency of share, the existence or non-existence (of a share in the land), seizing or possession when there was no possession and boundary.

733.In boundary disputes, enjoyment (i.e.possession) should be relied upon

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726-729. For 726 compare Visnu V. 151. 'Another woman who is not his slave' i.e. who is placed under his care or who comes to him for shelter. 'Weeping bitterly' i.e. who is unwilling to be sold to another; 'two hundred' - this refers to panas. The verse implies that if the slave is not devoted to the master, no fine is incurred by selling her.

730. 'Not his own master' i.e. being already the slave of one man; 'would not secure his desire' i.e. he cannot be the slave of the other man to whom he desires to go. This is the same as Nar. p. 138 v. 40.

731. Nar. (pp. 135 - 136 vv. 26-27) enumerates fifteen kinds of slaves of whom 'pravrajyavasita' (apostate & c) and 'anakalabhrta' (maintained in a famine) are two. So Kat. has in view Narada's verses. Manu VIII. 415 mentions several kinds of slaves but he does not exclude a larger number. With the first half compare Yaj. II. 183 and Nar. p. 137 v. 135 and vide v. 721 above. The only way in which an apostate from asceticism could gain his release would have been by saving the king's life from danger by endangering his own life. Vide Yaj. II. 182 and Naj. p. 136 v. 30. The latter half of 731 is the same as Nar. p. 136 v. 31.

732. The Mit. on Yaj. II. 150 explains these six :- When one says that he has more than five nivartanas of land in a particular area and another says that he has only five and not more, this is a dispute as to adhikya (larger extent); if one says he has five nivartanas of land and another says that man is entitled to less, that is

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(as the means of proof) and (that) depends upon witnesses. A witness is of two sorts, viz, one who has subscribed himself on a document and one not so.

734. When a dispute between two men arises as to fields houses, ponds, wells, gardens and dams, the neighbour who dwells on the border is the deciding evidence in all these matters.

735. When there are neighbours (available as witnesses) (the king or judge) should decide (disputes about the boundaries of) fields and the like by (the evidence of) neighbours; so also about boundaries of villages, towns and districts.

736. A village is the 'samanta' in the case of (another) village a field in the case of a field and a house in the case of a house, since these stand (as if) embracing (each other) all round.

737. In the absence of them (witnesses) samantas, maulas, vrddhas and uddhrtas are in order (the means of decision) in all the six kinds of disputes about immovables. This should not be doubted.

738.Samantas are those who are inseparably connected (with the village

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a dispute about deficiency (nyunata); where a man says that his share is five nivartanas and another says he has no share, that is a dispute concerning the existence or non-existence of a share; when one says that his land which was never in the enjoyment of another has recently been taken into his possession by that other and that other says his enjoyment is immemorial, that is 'abhogabhukti' cause of dispute. Whether this is the boundary or that is the sixth cause of land dispute. But in all six boundaries have directly or indirectly to be settled and therefore all may be included in the topic 'simavivada'. A boundary dispute may relate to one between countries, villages, fields and houses.

733. It is better to read 'sa ca saksisu'. Compare Manu VIII. 252 - 253. A witness in a boundary dispute is defined by Brhaspati as 'आगमं च प्रमाणं च भोगं कालं च नाम च । भूभागलक्षणं चैव ये विदुस्तेत्र साक्षिणः ॥ quoted in स्मृतिच III. p. 537.

734. Compare Vasistha 16. 13 'गृहक्षेत्रविरोधे सामन्तप्रत्ययः' and Manu VIII. 262.

735. Samanta' is derived from 'samanta' and means 'those who stay round about' (samantad - bhava). Omit the 'avagraha' after 'samantabhave'.

736. When there is a doubt about the boundaries of a village, the four villages round that village in the four principal directions are the neighbours (samantas). The words village, field, house, stand for persons dwelling therein or owning them. Compare Manu VIII. 258.

737. Maulas and the other two are defined in vv. 743 - 745. The six kinds are those in v. 732. 'In the absence of them' - in the absence of the two kings of witnesses mentioned in verse 733. Vide Manu VIII. 258 for samantas in the absence of witnesses.

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in dispute) then beyond them are those who are connected with them and then come those who verge on those who are connected with the samantas all these are like the lotus (with numerous layers of petals).

739-740. when the samantas (the first row of surrounding villages) are shown to be vitiated by defects for establishing the purpose (viz. the correct boundary) the decision should be made as the matter (of boundaries) is a very important one, by (the evidence of) those (villages or villagers) who come immediately after the (first row of) samantas. There is no doubt about this. When faults (are shown) in those who come immediately after the samantas (the first group of villages), those (i.e. the third group) who are after these (after the 2nd group) are declared (to be the person whose evidence is decisive). But the king who knows the law should not hold those who are shown to be vitiated (as proper persons for giving evidence as to boundaries).

741. The samantas (neighbouring villagers) are not free from their duty of (helping in) decision (of a boundry dispute) by (pretending) ignorance. when they profess that they are ignorant, they should be fined and (the king) should further proceed with the consideration (of the boundary dispute); when they (samantas) have deposed, and there is contradiction (in their testimony) they should be fined the highest amercement.

742. Giving up neighbours (samantas) if they are vitiated (by partiality &c), the king should settle (the boundary by mixing up others with the maulas and the rest. Those who know the law declare this to be the law (on boundary disputes).

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738. The four villages immediately on the boundary of the village in dispute are called samantas (or samsaktas); these are samantas par excellence; the four villages beyond these four are 'samsaktasakta'. The four villages even beyond the 2nd group of four are 'samsaktasaktasamsakta'. These latter two classes also may be called samantas in a secondary sense. They resemble a lotus, the inner petals being samantas, the next layer being the samsaktasaktas and so on.

739 - 740. 'Vitiated by defects' i.e. they are seen to be partial owing to friendship or enmity. The samantas even though shown to be partial owing to friendship or enmity are not to be regarded as proper persons simply because they are samantas; if they are partial then the next row (samsaktasaktas) are to be relied upon.

741. 'Further proceed' i.e. he should rely on documents and on the evidence of other persons (like maulas & c). Vide Vas 16-14 'सामन्तविरोधे लेख्यप्रत्यय'. Nar. p. 156 v. 7 prescribes the second amercement in this case and so do Manu VIII. 263 and Yaj. II. 53. Therefore Katyayana's rule is applicable where their deposition is grossly false.

742. 'Others' - these are persons other than samantas, i.e. they are citizens, and other villagers & c. It is better to read 'samiksya' (having considered) or

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743. Those are called by the sages' maulas who were at first samantas (of the disputed land) and afterwards migrated to another country, (being called maulas) because they (were) principal ones (at one time).

744. Those are called vrddhas, who, whether they are actually old or not, being endowed with the (good) qualities of men, saw the matter (of the boundary) when it was effected.

745. They are known to be uddhrtas since they being marked with the characteristics of knowing (the boundary) from other, enjoyment, recovering the taxes (of the land in dispute), popular report help to decide the matter.

746. Samantas are the first means of proof (in boundary disputes), but if their undersirability is pointed out, then those who are beyond them (are the means) provided they are possessed of good qualities are double in number (of the samantas); those other than these last (i.e.samsaktasakta samsakta) must be three times as many (as the samantas).

747. Even a single person, if acceptable to both (parties to the dispute), may in some cases lay down the boundary as it should be; he should do so clad in red clothes with an unperturbed mind and after placing a clod of earth on his head.

'sammarsya' as V.R. and Sm. C respectively do. Manu VIII. 259 also says that in the absence of samantas, the king should rely on maulas and in the absence of these on others.

743. 'Maula' is derived by Kat. from 'mula' (the root). At one time being samantas they were of prime importance and hence they are called maulas (though they are no longer samantas).

744. 'Whether they are actually old or not ... Being old is not an essential requisite of the definition. They must have seen the boundary being actually laid down or described in former times.

745. Uddhrtas are those who know the boundary in an indirect way i.e. by hearsay & c. 'Karya' is explained as 'karagrahana', 'akhyana' as 'varta' and 'upasravana' as 'parasparaprasiddhi' by Apararka.

746. This verse declares that samantas or samsaktas are the principal persons; if faults (due to friendship or hatred) are shown in them, then the next group (samsaktasaktas) is to be taken; but their number must be double of the samsaktas. Yaj. II. 152 laid down that the number of samantas must be 4, 8 or ten. So the samsaktasaktas must be 8, 16 or 20. Compare Sankha-Likhita 'गृहक्षेत्रयोर्विरोधे सामन्तप्रत्ययः, सामन्तविरोधे अभिलेख्यप्रत्ययः, अभिलेख्यविरोधे ग्रामनगरवृद्धश्रेणिप्रत्ययः, ग्रामनगरवृद्धश्रेणिविरोधे दशवर्षभुक्तमन्यत्र राजविप्रस्वात्' (quoted in V.R. p. 208).

747. Compare Br. p. 352 v. 11. Nar. p. 157 v. 9 laid down the general rule that a single man should not fix a boundary, but in v. 10 he allowed even a single man to do so. The wearing of red garments and placing earth on the head are prescribed even in the case of many by Manu VIII. 256 and Yaj. II. 152.

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748. In the absence of all, (the proper boundary) is the one determined by the king himself who is free from all sorts of apprehensions.

749. (This procedure should be followed in deciding boundary disputes) about large fields, wells, tanks, enclosed fields, gardens, houses, mansions, cottages, king's palaces and temples.

750. Of the many persons gathered together (for settling the dispute) if all do not give decisive testimony through fear or greed, each of them should be made to pay the highest amercement.

751. In the case of (setting a boundary dispute by) walking over the boundary in the ordeal by holy water, and in swearing by touching the feet (of idols, elders or brahmanas), (the visitation of) divine disfavour or royal disfavour is to be expected within three fort-nights, one fort-night, a week respectively.

752-753. One should not interfere with the base of the wall, a drain (or waterspout) a balcony, window, water-course and dwelling house (of another); one who obstructs these would be liable to fine. These are not to be added (to one's house) after the first building of it (so as to cause obstruction or annoyance to another) one should not open a window (so as to command a view) in the interior of another's house or should not construct a water-course (that will drain off rain water) on another's house.

754. One should construct the mounds meant for (depositing) ordure, urine, and filthy water, a fire-place and a pit at a distance of (at least) two cubits from the walls of other people (his neighbours).

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748. When there were no witnesses, no samantas and the rest, no indications such as trees & c for settling the boundary, the king was to settle it according to his own lights. Vide Manu VIII. 265, Yaj. II. 153 (latter half), Nar. p. 157. v. 11.

749. Compare Manu VIII. 262, Yaj. II. 154, Nar. p. 157. v. 12. 'Kedara' is explained 'as a field with low embankments'.

750. Vide v. 741 above and note thereon. Compare Manu VIII. 257 (prescribing a fine of 200 panas for saksi) and v. 263 (which prescribes middle amercement for false samantas), Yaj. II. 153 (who prescribes middle amercement i.e. 500 panas for samantas), Nar. p. 156, v. 7. The Mit explains that the highest fine is to be awarded if they purposely give false testimony.

751. The idea is that a boundary settled by the evidence of samantas & c should not be regarded as final for three fortnights; if within that period the persons settling that boundary are visited by divine or royal displeasure, then it is to be inferred that they decided falsely.

752 - 753. Compare Br. p. 354 vv. 24-25 for similar provisions as to the protection of easements; 'should not open a window' - this right of privacy is recognised even now by the courts as prevalent in Gujarat. Vide 2 Bom. L.R. 454, 22 Bom. L.R. 226.

754. Apararka reads 'cakram' for 'vapram' which is explained by V.R. as 'machine for pressing oil'. Compare Br. p. 354 v. 26.

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755. That by which all men pass at all times without obstruction is called catuspatha (thoroughfare or road where four roads meet) and that is called rajamarga (king's way by which all men can pass at certain times.

756. One should not plant anything on that (thorough fare or rajamarga) nor should obstruct it by (placing on it) anything. A man who does not give precedence on the way to his guru, preceptor, the king and the like is liable to fine.

757. He who puts obstruction (by keeping carts &c) there on or makes pits or plants trees or wilfully voids excrement there on (i.e. on the public thoroughtfare) should be fined a masa.

758-759. He who defiles a tank, a garden and holy waters (or ghats) with ordure, should be made to remove the filth and should be fined the first amercement. He who soils holy and purifying tirthas (sacred waters or ghats) established (or constructed) by saintly persons should be fined the first amercement.

760-761. the fruits and flowers of those trees that grow on the boundary between two fields should be declared (by the king or judge) as joint between the owners of the two fields. But where the branches of tree growing in one man's field spread over another man's field, that man should be known as the owner (of the trees together with the branches) in whose field the trees grow (are born).

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755. Read 'aniruddha' for 'aniruddho'. Compare Br. p. 354 v. 27 who calls catuspatha by the name 'samsarana'.

756. Yaj. I. 34 defines guru as one who performs all the samskaras of a man and imparts the Veda to him, while an acarya is one who performs only the thread ceremony and teaches the Veda. About precedence on the road elaborate rules were laid down from ancient times. Vide Ap. Dh. S. II. 5.II. 5-9; Gautama VI. 21-22, Manu II. 138-139 (the precedence is to be given to one in a wheeled carriage, one very old, one diseased, one carrying a burden, woman, a snataka, king, bridegroom); Baud. Dh. S. II. 3. 50, Vas. 13. 58-60 and Vanaparva 133. I. Most of these emphasize that a snataka or a learned brahmana was to be given precedence over even the king and Vas. 13.60 says that all should give precedence to a bride who is being taken in a procession.

757. For 'masa' vide verses 492 - 493; compare Manu IX, 282 who prescribes a heavier fine (of two karsapanas) in the case of one who voids ordure on the rajamarga; but Manu IX. 283 makes an exception in the case of old men, diseased men, pregnant women and children; when they do the same, they are to be only reproved and not fined. This verse is the same as Br. p. 354 v. 28. Compare Kaut p. 145 (text) for fines for throwing dust on the public road and for throwing ordure or urine on holy places, in water etc.

759. This refers to washing soiled clothes in holy water etc.

760 - 761. If one owner alone takes all the fruits, he is liable to fine for taking half

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762-763. He who, without the permission of the owner, does repairs to a house, garden or tank, does not get (even) his expense (from the owner) when the owner comes (from abroad) if (he made the repairs) without informing the king but if he informs (the king) and is directed by the king (to do the repairs) he recovers the expenses made there on (from the owner).

764. (if the owner of a field lying fallow) cannot return through inability (i.e. through want of means) the expenses incurred (by an husbandman) for (turning) fallow land (into arable land), the actual tiller (who makes the expenses) would get all the produce of the field minus an eighth part; for eight years the actual tiller (who spends money) will enjoy the produce (in this way); after that (period) he should hand over the field to the owner.

765-767. When the owner of a field is unable (to cultivate it) or is dead or is not heard of, if a stranger cultivates the field without being prevented by anybody, that man (the stranger) shall enjoy the produce of the field. if the owner returns while the field is being tilled (by a stranger), he can get his field back after returning (to the stranger) all the money spent on turning the waste land (into arable). Till seven years have passed away (the stranger should enjoy the produce), with a deduction of the eighth part. But when the eighth year is finished the owner would get back his field that has been enjoyed (for years by a stranger).

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the fruits. Compare Nar. p. 157 - 158 vv. 13 - 14. It is possible to interpret 761 in another way. When the branches of trees growing in one man's field take root in the field of another (as in the case of banyan and similar trees), the branches that become fresh stocks belong to him in whose field the branches take root. But this construction is rather far - fetched and restricted to a few special trees only. Vide 44 Bom. 605 about the right to cut over - hanging trees and also 43 Bom. 164.

762-763. Compare Yaj. II. 157 which applies a similar rule to the construction of a dike or water-course in another's land. Nar. (p. 159 vv. 20-21) contains the same rule as Yaj. about a dike.

764. 'Minus an eighth part' - the eighth part goes to the owner as his due for his ownership.

765-767. The first two are the same as Nar. pp. 159-160 vv. 23-24. There would be conflict between 764 and 767 if 'samapte' is taken to mean 'is reached'. 'If the owner returns' - this includes 'the son of the owner', where the owner is dead or unheard of Nar. p. 160 v. 26 says that a field which has not been cultivated for one year becomes half-waste; that which is not cultivated for three years becomes waste and that which is not cultivated for five years is no better than a forest.

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(Abuse and defamation)

768. That is said to be harshness of words (i.e. abuse) when one makes the sound 'hum' (before another) coughs (before him) or imitates or utters (before another) whatever is censurable according to popular notions.

769. That (abuse) is known to be threefold since it may be either nisthura, aslila, or tivra. It is known to be nisthura when there is reproach (in the words used), aslila is what is styled nyanga (indecent); the wise call that tivra wherein there are charges (of acts) that make a man liable to expulsion from caste.

770. Those are known as nisthura words when one reproaches another with the possession of constituents that are (generally) termed undersirable (or bad), whether they actually exist in him or not.

771. When a man through wrath reduces another to a humiliating position by words so far as his character, country family and the like are concerned, that is known to be aslila speech.

772. That speech is well known as tivra, which connects a man with grave sins, which gives rise to friendship or hatred, or which charges a man (with acts that cause) loss of caste.

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768. The sound 'hum' is a sound of defiance.

769. 'Reproach' - one may reproach a man's country (e.g. saying to a Gauda that Gaudas are quarrelsome), caste (eg. saying brahmanas are very avaricious), family (eg. members of the Visvamitra gotra are cruel), or one's profession or learning etc. 'Nyanga' means 'indecent'. Charging a man with drinking liquor or the like is tivra, as drinking was a mahapataka and would involve for a brahmana expulsion from caste. This is the same as Nar. p. 207 v. 2 Vide Br. p. 355. vv. 2-4 for the three kinds and for the statement that each of the three is in order worse than the preceding. The Tandya Mahabrahmana (14.6.6) contains an example of reproach (akrosa as to caste) 'वत्सश्च मेघातिथिश्च काण्वावास्तां तं वत्सं मेघातिथिराक्रोशदब्राह्मणोसि शूद्रापुत्र इति'. Vide Panini VI. 3.21 and VIII. 4.48 for आक्रोश.

770. Even when a man is cripple or blind to call him so to his face is abuse; if a man is not blind, to call him so is also abuse Vide Kaut. p. 193 (text) and Manu. VIII. 274. Compare exception one to sec. 499 of the Indian Penal Code, where the mere truth of an imputation does not exonerate a man without more.

771. Apararka and V.R. read 'nyangavaguranam' which means 'treating a man with utter contempt by pointing to one's lowest limbs (private parts etc.)'.

772. The great sins were five according to Manu. XI. 54 and Vas. I. 19 - 20 and Visnu 35. Vide Ap. Dh. S. I. 7. 21. 7-11, Gautama XXI. 1-3, Baud. Dh. S. II. 1. 4041 for 'pataniyani'. Visnu (chapter 38) deals with acts that cause loss of caste (जातिभ्रंश).

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773. That man is known to be abusive in speech (guilty of abuse) who through wrath enumerates faults in a man (who possesses the opposite virtues) or who declares a man who has no (good) qualities to be one who appreciates good qualities or who asks one man by an epithet applicable to another.

774. That man is known to be guilty of abuse who recites for the sake of mere fault finding in a man who (really) does not possess them or who points out the faults of one man while pretending to refer to another.

775. (The king or judge) should prescribe half the fine (for him) who says what I said (in abuse) was said through ignorance, carelessness, rivalry or familiarity; I shall not again say so.

776-777. Where one man mentions another as patita (guilty of grave sin) in order that he may be avoided by others, there he would not be guilty because he says so, provided he establishes that sin (in the man whom he mentions as patita). Otherwise he would be as guilty (as the man whose faults he mentions) and if he falsely points out faults the fine (for him) is declared to be the highest.

778. (The king) should with great concentration (application) establish the (guilt of the man) charged with abuse; the king should with great effort consider what he is informed of as false. Cutting of the tongue is (the proper) expiation (punishment) for those who are addicted to spreading false reports (about others).

(Assault and battery)

779. If (the king) is not able to find out the cause of assault by means of inference and the like, then he should employ witnesses or ordeals.

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775. Compare Kaut. p. 193 'प्रमादमदमाहादिभिरर्धदण्डाः'.

776 - 777. 'May be avoided' - to have intercourse with a sinful man led to being equally guilty; hence if one warned another about such a man there was no offence. Compare exceptions 9 and 10 to section 499 of the Indian Penal Code. 'Otherwide' i.e. if he mentions the sins of another not for the purpose of warning others against contact with him. Vide v. 770 above and Nar. p. 210 v. 21.

778. The V.R. explains that the punishment of cutting the tongue is meant for offenders who are not brahmanas and it quotes a sutra of Harita about cutting of tongue. Compare आप ध. सू. II. 10. 27 14 जिह्वाच्छेदनं शूद्रस्यायै धार्मिकमाक्तोशतः. Vide notes above on vv. 479 - 480.

779. Apararka explains 'employ ordeals which then stand in place of witnesses'. But this seems farfetched. Vide Yaj. II. 212 and Mit. thereon. The oldest reference in Sanskrit literature to fines for assault is contained in the Taittiriya Samhita II. 6.10.2. 'Him who strikes a brahmana, he shall fine a thousand; he who draws blood from a brahmana shall not see the world of pitrs etc'.

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780. That man, who strikes another with a fierce weapon though he may himself have been harassed, is declared to be liable to be punished.

781. For cutting off the ear, the lip, the nose, the foot, the eye, the tongue, the penis, the hand, the punishment is the highest amercement and for causing injury (or wounding) to these, the middle amercement; this is the view of Bhrgu.

782. When man and beasts are struck with a view to cause them great pain, the king should inflict fine in proportion to the pain caused.

783. The punishment for untouchables, gamblers, slaves, for mlecchas, for persistant sinners and for those who are born of unions in the reverse order of castes is beating (whipping) and not in money.

784. The fine should be raised to fourfold when a person's body is brought in contact with vomitted matter, urine or ordure; but (if thrown) on the middle of the body the fine would be sixfold and if on the head, it is eightfold.

785. When the hand is raised (to strike a man of the same caste) the fine is twelve panas; the fine is declared to be double of that when the hand strikes persons of one's own caste.

786. Just as in abuse punishments have been declared in accordance with the direct or inverse order of castes (of the guilty person) so also in assaults punishments should be awarded in the same manner.

787. For injury to the organs of the body just as a fine should be prescribed by the king, so also something must be given (by the offender) for appeasing (the person injured) and also for setting up (for curing him) as may be fixed by experts. He (the offender) should pay (all) the expenses for setting the man up including the healing of the wound.

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780. 'Fierce weapon' like a sword etc. One who is assaulted may exercise the right of private defence of body by striking in return, but he must not exceed it. It slapped with the hand, he cannot use a sword and cut off the man. Compare sections 100 and 101 of the Indian Penal Code. Vide Nar. p. 208 v. 9 and Br. p. 357 v. 4.

782. This is Manu. VIII. 286.

783. 'Unions etc.' - vide Manu X. II. 13 for offspring of unions in the reverse order. Compare Nar. p. 209 vv. 11-12 and Br. p. 359 v. 15.

784. 'Fourfold' - fourfold of ten panas. Yaj. II. 213 precribes a fine of ten panas when ashes or mud is thrown at another. This fine applies when those things are thrown at any part of the body except the head and the trunk.

785. Compare Yaj. II. 216.

786. Compare Gautama XII. I.

787. Compare Man III. 287, Yaj. II. 222 and Br. 358 v. 1

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788. As regards those offenders for whom reproof by words and beating (whipping) were declared (to be the punishment), they should be made to pay (the price of) what was carried away or injured by them, and those who are indigent should make up (the loss) by doing work (for the man who is to be recompensed).

789. That man, who makes asses, bullocks bufaloes, camels and the like carry burdens at an improper time or when they are tired, or oppressed with thirst or hunger, should be punished with the first amercement.

790. For killing deer and birds (belonging to a person) and for killing snakes cats, mongoose, dog, pigs (kept by men) the fine is two panas and twelve panas respectively.

791. He who makes a young cow, animals dedicated to Gods and a sacred bull carry burdens (or carts) should be fined the first amercement and the highest amercement if he kills them.

792. On killing animals, the (offender) should give (to the owner) another animal (of the same type) or its proper, price, this is what manu said.

793. In the case of the destruction of all trees, the settled rule is that the fine must be in proportion to the usefulness of the (several kinds of) trees.

794. If the preceptor were to strike through anger a pupil (with something) other than a creeper, whereby great pain is caused (to the pupil), the father (may in such a case) make a complaint (against the teacher) for the pupil (his son).

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789. Compare Br. p. 359 v. 16.

792. Manu (VIII. 296 - 298) lays down various fines for killing valuable animals like elephants, horses and cows and less valuable animals like asses and goats & c and VIII. 288 lays down that he who causes mischief to the belongings of a man should satisfy that man and pay a fine to the king.

793. This is Manu VIII. 285. Compare Visnu V. 55-59 who prescribes the highest amercement for cutting trees the fruits of which are useful, the middle one for cutting off trees the flowers alone of which are useful, 100 karsapanas for cutting creepers and bushes and one karsapana for cutting grass and the offender had to pay compensation for the loss of the trees. Yaj. II. 228 prescribes double the ordinary fine for cutting trees near temples, cemeteries, boundaries.

794. Gautama (II. 48-50) lays down that the teacher was to regulate the pupil without beating him but if unable to do so, he might use a thin rope or piece of bamboo and that if he beat the pupil he was to be punished by the king. Compare Ap. Dh. S. I. 2.8. 29-30 (who does not at all allow beating, but only reproof, not giving food for some time & c).

795. Compare Nar. p. 202 v. 1. Sahasa is derived by Narada from 'sahas'

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(Crimes of violence)

795. That is declared to be sahasa which is an act done with force.

796. Robbing in the presence of guards, carrying away a thing by force- sahasa is of this kind, while (mere) theft is said to be concealing (i.e.depriving a man stealthily).

797. Where an offence coming under the name sahasa has taken place without (leaving) indicatory signs (for fastening the guilt), the person (charged with sahasa) must establish his innocence by oaths (and ordeals). This is the rule in all disputes.

798. If several men violently beat one man to death he out of them who gives the fatal blow is declared to be the murderer.

799. One who is the author of the murder by (actually) killing (the deceased) would be liable to be killed in various ways. One should certainly kill without waiting for consideration a man coming with the intention of destroying (a life or a dam).

800. No blame attaches to him who kills wicked men that are ready (to kill another), but when they have desisted from their attempt (to kill), they should be captured and not killed.

801. If a man superior in austerities, Vedic study and birth becomes an

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meaning 'force'. The term sahasa is used to denote violent deeds or heinous offences of every sort.. Br. p. 359 v. 1 divides it into four kinds viz. homicide, theft, assault on another's wife and parusya (of two kinds).

796. Compare Manu VIII. 332 (where the word anvaya occurs); Yaj. II. 230 and Kaut p. 191 (text, where also 'anvaya' occurs); 'anvaya' has been explained by the Mit. as 'persons guarding the wealth, royal officials & c'.

797. Yaj. (II. 280-281) lays down various circumstances and modes of ascertaining the offender in case of homicide; vide Br. p. 364 vv. 34 - 36 for the same. Compare with this verse Br. p. 364 vv. 37-38.

798. This means that he is to suffer the full punishment for murder and the rest are to be awarded lesser punishments. Compare Br. p. 363 v. 31 for the same idea.

799. Vide Yaj. II, 278, 282 (for various ways of carrying out the sentence of death), Br. p. 363 vv. 29, 30, 17, 18.

800. Compare sections 100 and 102 of the Indian Penal Code as to the right of private defence.

801. All are agreed that an atatayin who is not a brahmana may be killed outright without incurring any blame. But the minds of all writers of digests were exercised over the question whether a brahmana atatayin could be killed without incurring sin, since there are conflicting texts on the point. In this verse the reference in the

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atatayin (a desperate felon), killing him is not proper; killing is prescribed for a sinner of a lower class. This is the view of Bhrgu.

802-803. He who is about to use his sword, poison or fire, he whose hand wields a drawn bow, who kills by the incantations contained in the Atharvaveda, who is a back biter conveying to the king (information that would lead the king to harm a man), who assaults another's wife, who is bent upon finding out weak points in another (and striking him there) all these and the like should be known as atatayin.

804. These wicked men who rob a man of his fame and his character who deprive (one) of dharma and artha (are said to be atatayins); he who not being charged (or accused) before proceeds to take life or rob (a man) of his all or to commit similar offences is to be known as atatayin.

805. One who kills animals having (sharp) claws, horned animals, animals

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first half is to a brahmana who becomes an atatayin. Manu IV. 162 forbids the killing of one's teacher, parents, brahmanas cows & c Kat probably refers to this verse of Manu when he speaks of Bhrgu's view. But there is another verse of Manu (VIII. 350, which permits the killing of even a guru or a brahmana when he comes as an atatayin. So there is a conflict between two verses) of Manu, Vide Mit. on Yaj. II. 21 and my notes on V.M. pp. 415 - 422 for an elaborate discussion of this topic.

802-803. 'Incantations & c' - There are numerous hymns in the Atharvaveda which were employed against one's enemies e.g; I, 19, II. 19, III. 1 and 2 (which hymns are styled 'mohanani in the Kausika sutra), VIII. 108 & c. 'All these and the like' this shows that the enumeration of atatayins here and in other texts is not exhaustive. Vas. III. 16 mentions six kinds of atatayins (incendiary, poisoner, one with a raised weapon, one who deprives of all property, one who abducts another's wife or robs him of his field). The word 'atatayin' is applied to Rudra in the Vajasaneya samhita 16. 18 and in the Kathaka samhita 17.12 and probably means there 'one who always goes about with his bow stretched'. Vide Vas. III. 17, 18 which declare that there is no blame in killing even a learned brahmana when he is an atatayin; also Baud. Dh. S. I. 10. 12; Vishnu. V. 190 - 192; Manu. VIII. 350 - 51.

804. 'Aksarita' means 'accused or charged'. Vide Mann VIII. 354 - 355 for use of that word.

805. 'Other animals' i.e. birds that strike with their beaks. Wherever it is said that in killing an atatayin man or animal one incurs no blame, the meaning is that he is not liable to the punishment usually laid down for killing a man or animal.

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with fangs or tusks, and elephants and horses and other animals when all these are atatayin does not incur any blame.

806. Even a brahmana deserves to be killed if he be guilty of causing abortion if he be a theif (of gold), or if he strikes a brahmana woman with a sharp weapon, or if he kills an innocent woman.

807. That man who causes (slight) injury, breakage or total destruction of (valuable) articles would be liable to the first amercement and the owner of the article is entitled to get (another similar) article (or its price).

808. He who steals, breaks or burns the idols of Gods or who causes damage to temples should be punished with the first amercement.

809. He who causes a breach in a rampart wall or pulls it down or shatters it, or obstructs the flow of water (running in a water channel) should be awarded the first amercement.

(Theft)

810. Depriving a man of his wealth, either clandestinely or openly and either by night or by day is known to be theft.

811. (The king) should carefully examine property (alleged to be) stolen (to see) whether the article passed to the hands (of the alleged thief) from another's hand, or whether he took it up without any intention (of stealing) when it lay on the ground (unclaimed) or whether he actually lifted it away as a thief.

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806. There is a similar verse of Yaj. (II. 277 the Mitaksara interpretation of which differs from Visvarupa's, who counts it as II. 281).

807. This verse applies to mischief to valuable articles like crystal. Compare Manu IX. 286. Vide Yaj. II. 223 for fines for mischief to articles of small value.

808. Manu IX. 285 prescribes a fine of 500 for breaking pratimas (which, Kulluka explains, were made of clay & c and so were of an inferior kind), while Visnu V. 174 prescribes the highest amercement for a breaker of images and Sankha - Likhita prescibe a fine of eight hundred for the same offence 'प्रतिमारामकूप - सक्रमध्वजसेतुनिपानभङ्गेषु तत्समुत्थापनं प्रतिसंस्कारोष्टशतं च' (quoted in V.R. p. 364). These various fines were due to the superiority and value or inferiority of the images.

809. Vide Manu. IX, 289 who prescribes the punishment of banishment for one who causes a breach in the city wall.

810. Compare Nar. p. 204 v. 12 Ap. Dh. S. I. 9, 25. II quotes a verse which mentions theft, drinking, incest and killing of a brahmana as very heavy sins and Ap. Dh. S. I, 9. 25, 4-11 prescribe various prayascittas (penances) for theft. The Tai. Sam. IV. 1, 10, 2 speaks of thieves (stealing secretly), taskaras (stealing openly) and malimlus (robbers and dacoits). Vide Vaj. Sam. XI. 77-79 for the same. Even in the Rgveda taskaras figure very often (vide I. 191.5; X.4.6).

811. Compare Nar. p. 23 v. 71 where he says that liars may have the appearance of honest men and vice versa.

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812. (Where a trader) deals (with his customers) by means of balances, measures (of corn) and measures of capacity that are imitations or substitutes for true ones or not so should be fined the first amercement.

813-814. What is stolen from the houses in a village, (the king) should make the thief catchers pay it (to the owners). He should make the guarding officers and wardens of the country (pay the price of stolen articles) if the thief be not found. The property stolen in the village should be restored (or its value be paid) by the headman of the village; in case (the theft took place) in a forest the king must restore (stolen property or its price), but if it took place in a place other than a forest, then it must be restored by the officer appointed to catch thieves.

815-817. Whatever is stolen from any person in one's kingdom must be restored by the king; the king should search for the thing lost and if found (after he pays the price to the owner) he should retain (the article) himself. (The king) should restore with efforts the thing itself that is stolen by thieves; in the absence of the thing the price (there of should be paid by the king); otherwise the king incurs sin. Even when the thief be caught, if the article stolen be not recovered from him, (the king) should restore the thing (himself) or he should make the thief pay according to his (the king's) pleasure.

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812. Compare Yaj. II. 244 'Or not so' - i.e. that are not false imitations of true weights. Manu (VIII. 256) divides thieves (taskaras) into open (prakasa) and clandestine (aprakasa) and instances traders dealing in merchandise as open thieves and those who hide themselves in forests as clandestine ones. Vide Manu VIII. 258-260, Nar. p. 223 vv. 1-5 for other examples of the two kinds. This verse deals with traders who use false balances or measures or who use clods of earth as weights and deceive people or those who without using false or wrong weights & c deceive people. Visnu V. 122 prescribes highest amercement for forging balance or measure. Compare Nar. p. 223 v. 2 and Yaj. II 244 Kaut p. 103 (II.19) has a chapter on the superintendent of weights and measures. Sankha-Likhita as quoted in V.R. p. 298 say 'कूटतुलामान प्रतिमानव्यवहारे शारीरङ्गेच्छदा वा'.

813-814. 'Thief-catchers' - officers appointed to trace and catch thieves. 'Araksaka' is explained by V.R. as 'one appointed to guard a village' and V.C. paraphrases it by a vernacular word 'kotala' (which seems to be the same as the modern Kotwal). 'Dikpala' is paraphrased as 'desapati'. In the inscription of Dharasena II of 'Valabhi' (Ind. Ant. vol. 15 p. 187) among several officers we have a 'cauroddharanika'; in the inscription of Narayanpala (Ind. Ant. vol. 15 p. 304) we have in a long list 'cauroddharanika' 'kottapala' (who is the same as modern 'kotwal') and 'visayapati; in Karhad plate of Krsna III dated sake 880 (958 A. I) we have 'rastrapati', 'visayapati', 'gramakuta' etc (Epi. Ind. vol. IV p. 278, 285). 'Vivita' means 'land reserved for grass, forest'. Compare Ap. Dh. S. II 10. 26. 4-8; Gautama X. 46-47 (for the king's liability to restore); Yaj. II. 271, Nar. p. 225 v. 17.

815-817. Compare Vishnu. III, 65-66 with 816. The V.R. seems to explain the

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818-819. When thieves are being made to restore (articles alleged to be stolen) if there be a doubt as to the offence, the person who was robbed should be made to take oaths or he should establish (his allegation of stolen articles) by (the evidence of) his relatives. Where the owner recovers a portion of his stolen property from a certain person, he (the owner) should recover the rest from the same man, if he (the owner) establishes (the loss of all the articles alleged).

820. Those who are traitors (or cause destruction of) to their country and those who are highway robbers should be deprived (by the king) of their all and should be ordered to be impaled on a stake.

821. If those who are intent on (i.e. whose duty it is to) tracing thieves were to make one who is not be real thief to restore (or pay the price of) the thing stolen, the persons so compelled would get back what they had to pay when (the real thief) was found and (the king) should make (the officers guilty of harassing the innocent man) pay (to the latter) double (of the price).

822. The king should cut off that limb of a robber with which he causes loss to another, so that he will not do so again.

822. If a person takes two cucumbers, or two melons, five mangoes or five pomegranate fruits and a handful of oats or jujubes (from another's land or trees) he does not incure blame.

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last half of 817 as 'the king should hand over the thief to the owner or should himself pay for the price of the thing stolen'.

818-819. It is better to read 'mose' for 'dose' with V.R. and then the meaning will be 'if there be a doubt about what things were actually stolen;' 'relatives' - this is only illustrative; it means that he should prove the articles stolen on the testimony of reliable witnesses; 'pratyaye-krte' may also mean 'if the owner undergoes an ordeal or takes oath as to the articles stolen'. With 819 compare 219 above and Yaj. II. 20 and Vishnu. VI. 22.

820. Compare Br. p. 361 v. 17. If thieves residing in one country cause loss in another country, the king was not to visit them with this punishment. Vide 633 above.

821. Compar Nar. p. 226 v. 20.

822. It is possible to understand this verse to mean 'cut off that limb of a robber who causes injury to a similar limb of another' (in committing a robbery). Compare Manu. IX. 276 - 277 and VIII. 334, Yaj. II. 274, Nar p. 228 v. 34.

822 A. Compare Manu. VIII. 339 (taking grass for one's cows, roots and flowers of forest plants, or wood for sacrificial fire from another's land was no theft) and 341 (a traveller of the three higher castes short of food was allowed to take two sugarcanes and two roots from another's field). Vide Gautama XII. 25, Ap. I. 10.28. 3. Yaj. II. 166 and Nar. p. 219 v. 37. Compare the maxim. 'de minimis non curat lex' and sec. 95 of the Indian Penal Code.

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823. The Manavas (school of Manu) declare that those (thieves) who are caught (red-handed) with booty should be at once banished (from the kingdom); but this (punishment) is not approved of by Gautamas (the school of Gautama) since it is censured owing to the destruction (or reduction) of people (in the country).

824-825. The king, after catching (a brahmana) theif and proclaiming (publicly) the signs of his guilt, whether he be caught with booty or not, provided his heinous crime is established as a fact, should deprive him of all his wealth. (The brahmana thieves), who are very strong, being guarded with iron fetters, fed on meagre food, should do (hard) labour for the king till their death; this is the view of kausika.

826. When a foreigner steals property from another country (and brings it into a country where he is sojourning), the king (of the latter country) should deprive him of that property and should let him off without punishment.

827. Those who supply food to thieves, those who give them fire and water, those who purchase (stolen) goods from them and receive (stolen) property from them and those who hide them - these are all declared to be liable to the same punishment (as the thieves themselves).

828. Where one who is not learned officiates as a priest at a sacrifice and where one who is not himself firmly grounded (in any sastra) sets up as a propounder of it, the king should punish both with the punishment for a thief and should make them abide by the (proper) path.

(Adultery)

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823. Compare Manu. IX. 270. The V.R. and V.C. explain that these verses (823 - 825) apply to brahmana offenders. Manu VIII. 380 prescribes banishment for a brahmana offender, whatever his crime may be and forbids the sentence of death Verse 823 prescribes banishment for a brahmana who is learned.

824. Read 'pragrhya cinham etc'. 824 applies to brahmana possessed of wealth, but not learned; 825 applies to a brahmana offender who is neither learned nor rich. In the case of theft Gautama (XII. 12-13) prescribed for the sudra offender a fine eight times as much as the price of the article stolen, while a vaisya, ksatriya and brahmana were respectively liable to pay 16, 32, 64 times as much as the price. Vide Manu. VIII. 337 - 338 for the same rule.

827. A bettors of thieves and receivers of stolen property were dealt with like thieves from ancient times. Compare Gautama XII. 46-47, Ap. Dh. S. I. 9. 25.5 and II. 11.29. 1, Manu, IX. 271 and 278 (who employs the word 'bhaktadayaka'), Yaj. II. 276 (who uses the words 'bhakta', 'agni' and 'udaka'), Nar. p. 225 vv. 14-15. Compare sec. 212 (harbouring an offender) and 411 (receiving stolen property) of the Indian Penal Code.

828. Yaj. II. 202 says that a brahmana who is devoid of learning and austerities should not accept a gift. Vide also Manu III. 168.

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829. Adultery is said to be ninefold, viz, when it is accompanied by the employment of a go between being together at an improper time and place; falling on a woman's neck or seizing her hair or the border of her sari (or gown) seizing a woman by the ear, nose or hand; sitting or taking food with her on the same seat.

830. When a man has forcibly had sexual intercourse with a woman, capital punishment is to be inflicted in that case (by the king) since it is a violation of (good) conduct.

831. An unchaste woman who being under the influence of lust, herself amorously approaches a man should be released by the king's order after being proclaimed (as unchaste) in the presence of people.

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829. Compare Manu VIII. 357, Yaj. II. 283 - 284, Nar. p. 178 vv. 65-67 and Br. pp. 365 - 366 vv. 6-8. These nine (and others also) are the indications by which adultery is to be inferred.

830. There is great difference of opinion as to the circumstances in which this verse applies. The V.M. says is applies to the rape of a woman of the same caste by a ksatriya or a person of an anuloma or pratiloma union. The Vir. p. 504 says it applies to an offender who is possessed of no merit; while the Sm. C says it applies to rape of a woman who is the wife of a man of no merit. The punishment for adultery and rape varied according to the caste of the male and the woman, was also different for men and women and also varied according as the woman was a maiden or was married.

831. If a woman was guilty of adultery with a person of a lower caste, she was to be devoured by dogs and the paramour was to be killed. Vide Gautama 23. 14-16 (this was the punishment in case no prayascitta was performed) and Manu VIII. 371 - 372, Vasistha (XXI. 1-5) prescribes that if a sudra commits adultery with a brahmana woman, he was to be thrown into fire, the woman was to be shaved, made to sit naked on a dark donkey and sent to perish in the mountains; and that any male of a lower caste guilty of adultery with a woman of higher caste was to be dealt with similarly; vide also Manu. VIII. 359 Ap. Dh. S. II. 10.26. 20-21 prescribed the penalty of cutting of the testicles and the penis for the male in adultery with a married woman, but when the woman was a maiden the paramour was to be deprived of all his wealth. A man of a higher caste guilty of adultery with a sudra married woman was to be banished, while a sudra male guilty of adultery with a married woman of a higher caste was to be killed, when he was appointed to guard her. Vide. Ap. Dh. S. II. 20. 27. 8-9 and Gautama XII. 2-3. Some writers somewhat softened these severe sentences. Yaj. II. 286 prescribed for a male for adultery with a woman of the same caste highest amercement, with

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832-834. He who commences (a sahasa), who is a friend (or helper), who gives advice as to the method (in which a sahasa is to be carried out), who gives refuge or asylum (to the offender), or supplies weapons who gives food to wrongdoers, who incites (the offender) to fight or who urges (the offender) for the destruction of the person (killed &c), who connives at (the commission of an offence) though not related (to the offender), who exposes the faults (of the person killed or harassed), who approves (of the offence), who though able, does not forbid (or prevent) the commission of it all these are (as good as) perpetrators of the deed (the offence). (The king) should prescribe punishment for these according to their ability and according to their offence.

(The duties of husband and wife)

835. (A wife) never remaining apart from her husband, being disciplined (or well conducted) and devoted to her husband, should serve (sacrifical) fire with the desire of securing freedom from widowhood and possession of happiness and love.

836. A wife obtains all desired objects only by ministering to her husband. When she comes back on this earth from heaven, she becomes the receptacle of all happiness.

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woman of a lower caste the middle one, with a woman if a higher caste death and cutting of the ear for the woman. Compare Manu VIII. 378. Vide v. 487 above for lesser fine for women.

832-834. It is better to read 'yadvopadesakah' with the Saras read - 'vaktanu'; 'destruction & c' by poision & c; 'who connives' - this applies to a man who though not able himself to prevent the offence does not inform others of it so that they may help in preventing it. If we take 'ayukta' to mean 'not appointed by the king' as V.R. does, then it would have to be connected with 'dosavakta'. Vide verse 827 above and compare Yaj. II. 231, Br. p. 364 v. 32 and Ap. Dh. S. II. 11.29. I.

835. 'Fire' - there were three fires (garhapatya, avahaniya and daksinagni) required in Vedic sacrifices and the grhya rites were performed in domestic fire. 'Saubhagya' means 'the husband's affection and happiness'. Manu (IX. 1-102) dilates upon this topic.

836. Compare Manu V. 155, 165 - 166, Yaj. I. 87. The idea is that by devotion to her husband, she accumulates merit and goes to heaven and when that merit is exhausted she returns to the earth, but is endowed with all hapiness. This is the doctrine of the Upanisads (vide Chandogya Up. V. 10. 1-7 and Vedantasutra III. 1.13).

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837. That chaste woman, who after her husband's death abides by the vow of celibacy, being in her conduct like Arundhati, is honoured in the world of Brahman.

(Partition of heritage)

838. That is declared to be a just (or lawful) division where the fathers and brothers divide the whole (common) property (whatever) in equal shares.

839. Property of the grandfather is of equal ownership between both the father and his sons; but the son is not entitled to ownership over what is acquired by the father himself.

840. The grandfather's property, the father's property and whatever else is acquired by themselves (with joint efforts) all these are divided when there is a partition between coheirs (or coparceners).

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837. Arundhati, the wife of Vasistha, is the highest type of conjugal fidelity and the star of Arundhati in the Great Bear is shown to the newly married bride. Vide Asvalayana grhya I. 7. 22. Compare Visnu 25. 14 who prescribe brahmacharya or anvarohana (being a sati) and also 25. 17; Br. p. 369 v. 10, Manu V. 159-160. The Sm. C. III. p. 597 quotes a verse of Angiras 'मृते भर्तरि या नारी समारोहेद्धुताशनम् । सारुन्धतीसमाचारा स्वर्गलोके महीयते' ॥.

838. It is better to read 'pitarau' for 'pitarah' with the Vir. The parents and their sons when coming to a partition of joint family property take each the same share. 'Brothers' means sons of the father with whom a partition is made. Compare Br. 370 v.2. When the sons came to a partition during the father's life time or after his death, the mother was entitled to a share equal to that of a son. Vide Yaj. II. 115, Nar. p. 192 v. 12.

839. This verse embodies the central conception of the Mitaksara school as to the equal ownership of father and sons in ancestral property. Compare Yaj. II 121, Visnu. 17.2, Br. p. 370 v. 3. The Mit on Yaj. II 121 explains that verses like Yaj. II. 114, Nar. p. 191 v. 12, Br. p. 370 v. 4 (which allow the father to make an unequal distribution among his sons) refer to the father's self-acquired property. Visnu. 17. 1 explicitly states this. This text of Br. p. 189 v. A is quoted in I.L.R. 10 Bom. 528 at p. 547 and Yaj. II. 114 is quoted by Telang J in I.L.R. 16 Bom. at p. 48 and spoken of as a general and notorious principle.

840. 'Whatever else is acquired' this refers to property acquired with the help of ancestral or joint property, since what is acquired by a coheir without using joint funds would be his self-acquisition. This verse is quoted in Ponappa Pillai v Pappuvayyangar 4 Mad. 1, at p. 49.

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841. A house, fields, cattle and similar visible (effects or estate) should be divided; if there is a suspicion that (certain joint property) is concealed, an ordeal is prescribed (in that case).

842. Household utensils, beasts of burden, milch cattle, ornaments and slaves - these visible effects are divided. Bhrgu declared the kosa (ordeal) when was a doubt whether certain joint property) was concealed.

843. In a partition while the father is living the father should not make a distinction between one son (and other sons) nor should he suddenly deprive a son of his share without any cause.

844. Partition is ordained among (coparceners) who have attained (years of) understanding of wordly affairs; and in the case of men they attain understanding of affairs at the sixteenth year.

845. The property (share in the joint estate) of those who have not attained years of discretion, being made free from expenses, should be kept (by the other coheirs) with their (the minors) relatives and friends; the same should be done (to the shares) of those who have gone abroad.

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841. Vide verse 415 above which prescribes the kosa ordeal in disputes about partition.

842. Apararka says that the kosa ordeal is only illustrative, but the words of Kat in 415 appear to forbid other ordeals. Compare Br. 'गृहोपस्करवाह्यादिदोह्याभरणकर्मिणः। दृश्यमाना विभज्यन्ते गूढे कोशो विधीयते' ॥ (quoted in Sm. C. III. p. 636).

843.'should not make a distinction' - by giving a larger share to one son as compared to the shares given to other sons; 'suddenly' - through wrath against other sons or extreme affection for one son; 'without cause' - if there be no causes for disinheriting him such as 'patitya' & c Kaut (p. 161 text) has these very words 'जीवद्विभागे पिता नैकं विशेषयेत्। न चैकमकारणान्निर्भर्जेत ।' Even the Rgveda (I. 70.10) appears to refer to the practice of the division of property during the lifetime of the father (when old). Vide Baud. Dh. S. II. 2. 8 and Yaj. II. 114 Sankha - Likhita ('जीवति वा पितरि रिक्थभागोनुमतः प्रकाशे वा मिथो वा धर्मतः' quoted in V. R. p. 463), Nar. p. 191, v. 4 for distribution during father's lifetime.

844. Compare Kaut p. 161 (text 'प्राप्तव्यवहाराणां विभागः' and p. 154 . 'द्वादशवर्षा स्त्री प्राप्तव्यवहारा भवति षोडशवर्षः पुमान्') Nar p.51 v. 35 says that a man is a minor till he attains the 16th year. There is a controversy among commentators whether minority ended at the beginning of the 16th year or at the end. Many hold the former view, but the V.R. (p. 599) holds that minority ends with the end of the 16th year.

845. Compare Kaut p. 161 (अप्राप्तव्यवहाराणां देयविशुद्धं मातृबन्धुषु ग्रामवृद्धेषु वा स्थापयेयुर्व्यवहारप्रापणात् प्रोषितस्य वा), Gautama X. 48, Baud. Dh. S. II. 2.37

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845A. All (coheirs) should protect the share of the (coheir) who has gone abroad; and his share of the ancestral estate should be guarded by the relatives if his sons are minor or if he be dead. After him his minor (sons) should partition the wealth according to their shares.

846. All persons entitled to the ancestral wealth must pay at the time of partition all the debts incurred by the brother, paternal uncle or mother for the purpose of the family.

847. Those debts should be paid to the creditor which are established by proof (by the creditor) after a dispute is raised about them; and (the king or judge) should not cause debts (contracted by one) to be paid (by the other members) otherwise.

848. What is (promised by the father) for a religious and chritable purpose, what is promised (by the father) out of affection and that debt (of the father) which the father has specially enjoined (upon sons to pay) - these debts when found should be divided by the sons; there can be no payment out of the paternal wealth (of any other debt).

849-850. In a partition with coparceners one should discharge a debt that was incurred by the father, a debt that was incurred for paying off the father's debt, one's own debt incurred by another (for one's family) and a debt incurred by one's self. After paying off (the father's) debt and (his) gifts through affection the rest (of the property) should be divided.

(तेषामप्राप्तव्यवहाराणामंशान् सोपचयान्सुगुप्तान्निदध्युराव्यवहारप्रापणात्') Manu VIII. 27, Visnu. III. 65 and Vas. 16 7-8 cast upon the king the duty of protecting minor's estate; 'free from expenses' i.e. after deducting all the debts and charges due from the family for which the minor member's share would be liable.

845 A. According to Narada (p. 51 v. 35) 'poganda' means a minor who has not attained the 16th year. Manu VIII. 148 appears to use it in the same sense. But Amarasimha explains it as 'one who has a crippled limb or one who is devoid of a limb'. Kat follows Narada and Manu. 'His minor sons' - we have to understand that they should do so after attaining majority.

846. Compare Yaj. II. 117, Nar. p. 197. v. 32.

847. 'Those debts' - i.e. those contracted by the brother, paternal uncle & c.

848. This verse is variously explained. Most writers connect 'when found' with debt; but the V.M. takes it separately meaning 'visible wealth and debts should be divided'. 'Svaniyojitam' is explained by V.M. as 'what is incurred by the father himself'. Vide verse 566 above. As to gift through affection, vide Yaj. II. 123 (first half).

849-850. It is better to read 'sambaddham' for 'samsuddham'. Compare Nar. p. 197 v. 32, Manu VIII. 166. These two verses are quoted in Ponappa Pillai v Pappuvayyangar 4 Mad. 1 at p. 49.

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851. The father gets two shares or half from the wealth acquired by the son; when the father is dead the mother also gets a share equal to that of a son.

852. The wise should so arrange the extent of shares (among dividing heirs) that the wealth obtained by partition may more and more be employed for purposes of sacrifice.

853. A single (coparcener) has not in every day life the absolute power to make even a partition of ancestral estate. One can only enjoy (the ancestral estate), but one cannot (by himself) make a gift or sale of it.

854. Coheirs, whether they be separated or unseparated, are equal as to immoveable property; for a single one (out of them) has no power to make a gift mortgage or sale.

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851. The first half is interpreted according to the Dayabhaga, which gives two interpretations. If the son acquires wealth with the help of ancestral funds, then the father gets half of it, the son who earned it gets two shares and the other sons one share each; if the son acquired wealth without the help of ancestral funds, then the father and the son who acquires each get two shares and the other sons get no share. The other interpretation is that in wealth acquired by the son the father gets half if the father is possessed of learning & c and if he is not so he gets two shares. The Vir. pp. 566, 567 severely criticizes the Dayabhaga and interprets it to mean 'the father because he acquires the wealth and begets the son should take two shares (in property acquired by himself) or half of it'. Compare Nar. p. 191 v. 12 with this verse. Vide Br. p. 370 v. 5 for two shares for the father. Compare Yaj. II. 123 (latter half) and Visnu. 18. 34 with the latter half.

852-853. In I.L.R. 33 All 118 at p. 121 it was said that the text of Yaj. giving a share to the mother implies an actual division of the family property and that a mere severance of interests did not confer on the mother a right to a share equal to that of a son. Vide I.L.R. 50 All 532 at p. 534. The primary idea is that wealth is intended for performing sacrifices. Therefore a larger share should be given to that one among brothers who by his learning and conduct is expected to spend much of his share on sacrifices. Vide the verse 'यज्ञार्थं वित्तं तस्मत्तद्विनियोजयेत् ॥ स्थानेषु न स्त्रीमूर्खविधर्मिषु ॥'. The Mit. (on Yaj. II. 135) however does not accept that this verse represents the correct position. Kat seems to favour the views contained in that verse. Vide Br. p. 371 v. 10 for a similar proposition. 'The absolute power ... estate' - this means that a single coparcener cannot without the consent of the others make a division by metes and bounds of ancestral estate.

854. This verse is variously explained. The Mit. (on Yaj. II. 114) says that in a state of union a single member cannot enter into a transaction of sale & c without the consent of the others, but that after partition, the member can sell the property that has fallen to his share, but the consent of the other coheirs should be taken

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855-856. If an undivided younger brother dies (the other brothers) should make his son take a share of the inhertance if he not obtained from his grandfather a livehood (i.e.a share); he should obtain from his uncle or his uncle's son the share which his father of all the brothers (who are sons of the man dying). Or even a son (of that son of the brother dying) would obtain (that share); beyond (this last) there is a cessation (of succession to that share).

857. When a son of the body is born, (other kinds of) sons take only a fourth share if of the same caste (as the owner's); but (other kinds of) sons who are not of the same caste (as the owner) are entitled to receive only food and raiment.

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for dispelling all doubts about their having been separated and for effecting transactions with ease. The Sm. C. and Madanaratna say that where immoveable property has not been divided, but only movable were divided and it was agreed that only the produce of the immovable property was to be divided, the immovable property cannot be sold without the consent of the others. The Dayabhaga explains that this verse prohibiting alienation even after partition simply indicates that if a vicious man sells his property so as to ruin his family he incurs sin, but that this verse does not mean that the sale (of the property fallen to his share) is invalid. Vide Br. p. 384 v. 93 for practically the same verse.

855-856. 'Younger brother' this is only illustrative and applies to even an elder brother; 'the share which his father & c' that is, the division is to be through the father, as laid down by Yaj. II. 120 (latter half); 'beyond this last there is cessation' i.e. the 4th in descent from the propositus would not get a share, if there are sons, grand-sons or great-grand-sons of the propositus alive. Vide for full explanation my notes to V. M. pp. 147 - 149. Suppose A has two undivided sons B and C. B dies undivided leaving a son D and then A dies. This verse declares that D though alone will get on a partition his father's half share from C or C's sons even if they are many. If D dies without claiming a partition and leaves a son E, the latter will get onehalf of the property of A. If B, D, E all die in the life-time of A without claiming partition and E leaves a son F and C or his sons or grand sons are living then F will not be entitled to claim a share from C. When A dies F is the fourth from the propositus A. These verses are quoted in Debi Pershad v Thakur Dial I.L.R. 1 All 105 (F.B.) at p. 111. Vide Moro v Ganesh 10 Bom. H.C.R. 444 for a lucid exposition of these verses and Devala's text (at pp. 461, 466 - 467).

857. Yaj. II. 128 - 132 enumerates 12 sons, aurasa, putrikaputra, ksetraja, gudhaja, kanina, paunarbhava, dattaka, krita, krtrima, svayam-datta, sahodhaja and apaviddha. Manu IX, a 158 - 160 enumerates twelve sons, 11 of which are the same as those of Yaj., but the saudra (son of a brahmana from a sudra wife) mentioned by Manu as 12th is omitted by Yaj. and the putrikaputra enumerated by Yaj. is separately mentioned by Manu (IX. 136). It is therefore that Br. (p. 375 v. 33) says that Manu enumerated thirteen sons. Manu says that six out of

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858. A fourth share of the family estate is desired for daughters who have not been given away in marriage (at the time of partition) while three parts (of the family estate) go to the sons; but if the (family) property be small they (sons and unmarried daughters) share equally.

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the twelve (viz, aurasa, ksetraja, datta, krtrima, gudhotpanna and apaviddha) are partakers of wealth and also bandhavas (i.e. they can offer pinda & c), while the other six are bandhavas but not dayadas (i.e. they do not take the estate). Vide Visnu 15. 1-28 for 12 sons and Gautama 28. 30-31. The Mit explains that 'of the same caste' means that they must be sons of the dattaka, or ksetraja sort or the like and the words 'not of the same caste' mean sons who are kanina, gudhaja, sahodha and paunarbhava. Vas. 15.9 says that if after a son is adopted, a son of the body is born to the adopter, the adopted son takes a fourth share. Gautama 28. 32 says generally 'चतुर्थींशिन औरसाद्यभावे' Kaut (p. 164) has a passge closely agreeing with Kat. 'औरसे तूत्पन्ने सवर्णास्तृतीयांशहराः, असवर्णा ग्रासाच्छादनभागिनः'. The Kalpataru, Dayabhaga and V.C. read 'तृतीयांशहराः' in the text of Kat. In Bengal the adopted son takes 1/3 of the estate in such circumstances and in Benares 1/4. In I.R.L. 43 Mad. 398 (at p. 402) the texts' of Kat. Vas and Baudhayana (S.B. E. vol. 14 p. 336) about the 1/4 share were referred to and it was held that in a suit by the father and aurasa son for partition against a son previously adopted, the adopted son takes 1/9th of the estate and the father and aurasa son take one-fourth each. This means that the 1/4th share is not 1/4th of the whole but 1/4 th of what the aurasa son takes. In I.L.R. 17 Bom. 100 and 49 Bom. 672 it was held that this rule about shares applied even to sudras. In Nagindas v Bachoo L.R. 43 I. A. 56 (= 40 Bom. 270) it was held that this rule applies only to the adopted son and subsequently born aurasa son of the same father and not to the aurasa son of one brother and the adopted son of another brother, when they are joint. In L.R. 48 I. A. p. 280 (= 44 Mad. 656) it was held that in Madras and Bengal the adopted and subsequently born aurasa sons of sudras shared equally. 858. Compare Manu IX. 118 and Yaj. II. 124 (both of whom prescribe a fourth share). The fourth share is not one-fourth of the whole estate, but, as the Mit. explains, one-fourth of what the un-married daughter would have got if she had been a son of the same class as herself. Vide my notes to V.M. pp. 157 - 158 for further explanation. The Dayabhaga, V.R. and V.C. explain that 1/4th is only illustrative and means 'she is entitled to a proper provision for her marriage expenses'. Compare Visnu 15. 31 'अनूढानां स्ववित्तानुरूपेण संस्कारं कुर्यात्', Kaut p. 161 'कन्याभ्यश्च प्रदानिकं' and Sankha - Likhita 'विभज्यमाने दायेभ्यः स्वकन्यालङ्कारं वैवाहिक स्त्रीधनं च कन्या लभते' (quoted in . वि.र.p. 495). Vide Bhagavati Shukul v Ram Jatan I.L.R. 45 All 297 (at p. 299) where it was held that 'the quarter share' in the Sanskrit texts means as much money as will suffice for marriage expenses, that

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859. When a person begets a fruit (a son) with the consent of the owner of the field (husband of the wife), both of them are entitled to the fruit (the son), since a fruit is not produced in the absence of one (of the two).

860. A son born of a woman who leaves an impotent husband and secures another husband is called paunarbhava and he clearly belongs to the begetter.

861. That man is said to be impotent whose urine has no froth, whose faeces (when voided) in water sink (to the bottom), and whose generative organ is devoid of erection and semen.

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the provision of a dowry for a daughter was a legal necessity and that where the daughter was a cripple and blind and all the property was worth Rs. 500 an alienation of the whole of it by the widowed mother for raising a dowry for the daughter was justifiable.

859. This verse refers to a topic that very much exercised the minds of ancient sages. In ancient times there was the practice of niyoga, whereby a son was begotten under certain circumstances by one man on the wife of another (eg. vide Gautama 18. 4-8 and Manu IX 59-62). Just as a fruit grows on land (ksetra) and seed (bija) is required for the production of fruit, so the wife is compared to the land (and spoken of as ksetra). The question arose to whom the son produced under niyoga belonged. Manu (IX. 52-53) seems to suggest that when there was an agreement that the son produced under niyoga was to belong to both the husband of the woman and the begetter, he belonged to both and if there was no agreement then he belonged to the husband of the woman (the ksetrika). Apastamba (Dh. S. II. 6. 13 5-6) relying on a brahmana passage and certain Vedic gathas held that the son belonged to the begetter. Vas. 17.63 seems to refer to the same view. Gautama 18. 9-14 refer to several views on the point. Though the Manusmrti (IX. 64-66) severely condemns niyoga, Yaj. I. 68-69, Nar. p. 181 vv. 80-84, Kaut p. 162 as also Gautama (18. 4-8), Vas. 17. 5657 and 66 appear to have countenanced it. Br. (p. 369 vv. 12-13) condemns it. Sankha - Likhita (as quoted in V.R. pp. 581 and 557) first state the view that the son belongs to the husband of the woman and then state the views of Angirasa and Usanas 'नियतं क्षेत्रिणामपत्यमिति च वेदवादः' & c and 'कारकर्तुरपत्यमित्याङ्गिरसो बीजिक्षेत्रिकयोरनुमते तद् बीजं प्रकीर्यते तद् द्विधा शस्यमित्युशनाः' । . Vide Nar. p. 176 v. 58 and Baud. Dh. S. II. 2.17 (S.B.E. vol. 14 p. 226) for the same idea as in this verse.

860. 'Paunarbhava' - born of a punarbhu (woman twice married). Nar (pp. 174-175 vv. 45-48) speaks of three kinds of punarabhus. Compare Manu IX. 175 (for paunarbhava) and 176, Yaj. II. 130, Visnu 15, 7-9, Vas. 17. 20.

861. Vide Nar. pp. 166 - 168 for the signs of a potent man and for 14 kinds of impotent men. Compare with this verse Nar. p. 167 v. 10 and Kaut p. 193 'क्लीबभावे स्त्रियः मूत्रफेनमप्सु विष्ठानिमज्जनं च' which means 'as to impotency women, froth of urine and the sinking of the faeces in water' (are the means of judging).

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862. The son of a woman married out of her order, one who is born of a husband of the same gotra (as that in which the woman was born) and one who is an apostate from the order of ascetics do not obtain the inheritance.

863-864. But the son of a woman married in the wrong order takes the ancestral wealth, when he is of the same class as his father and the son of a woman who is not of the same class with her husband (but is of a lower class) and is married in the proper order (takes the wealth of his father). But the son of a woman who is married in the reverse order does not take the ancestral estate; the approved view (of ancient writers) is that he should be given food and raiment till his death by his kinsmen.

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862. The word 'akramodhasutah' is interpreted in two ways. Most interpret it as follows : a person was first to marry a girl of his own caste, but he could marry a girl of any of the other castes lower than his own. Vide Manu III. 12. If a brahmana married a girl of the ksatriya caste first and then a brahmana girl, both became akramodha (married in the wrong order). In such a case the son of the ksatriya girl from the brahmana would not be entitled to a share of his father's estate, but the son of the brahmana wife would take the wealth as said in the next verse. The other interpretation given by the Vyavaharamayukha is : when a young brother (or sister) was married before an elder brother (or sister) the former was called parivettr and the latter parivitta or parivinna and such a procedure was called parivedana, which was declared very sinful. Vide Manu III. 172 and Baud Dh. S. II. 1. 39. This verse declares, according to V.M., that the son of a younger sister married before her elder sister and the son of an elder sister married after a younger one were both excluded from inheritance to their fathers respectively. A sagotra marriage was forbidden, but if it took place the son of such a marriage would not take the inheritance. The Dayabhaga takes 'sagotra ... jayate' to refer to the Ksetraja son.

863-864. 'The son of a woman who is not of the same caste' etc. If a brahmana married a brahmana girl and also a ksatriya girl, the sons born of both would like the estate of their brahmana father, but not equally. The son of the brahmana woman would take four shares of the estate, while the son of the kshatriya woman three and so on. Vide Manu IX. 152-154 and Yaj. II. 125 for the shares. 'Son of the woman ... reverse order' - this refers to the offspring of pratiloma unions (such as ksatriya or vaisya man marrying a brahmana woman). They were not entitled to the estate of their father if there were other heirs but only to food and raiment. But if there were no other heirs then even the offspring of pratiloma unions took their father's estate. Compare Gautama 28. 43 (शूद्रापुत्रवत्प्रतिलोमास्तु) with v. 864. In Natha v. chotalal 32 Bom. L.R. 1348 the two verses of Katyayana (862 and 864) are quoted (at p. 1353) and it is held that the son of a brahmana from a sudra wife is entitled to inherit a 1/10th share in the estate of his father as

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865. On failure of kinsmen, he would obtain (inherit) the estate of his father. The kinsmen are not to be made to pay (food and raiment to the son of a pratiloma union) when the kinsmen have taken no wealth of his father.

(Property not liable to partition)

866. All that (ancestral) wealth which was taken away by force from the family or was lost (to the family) and which was recovered by the father himself by his own efforts, the father is not liable to share with the sons at the time of partition.

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well as of his uncle and that he does not get more than 1/10 th as Manu (IX. 154) expressly says so. It is submitted with great respect that this decision is not in accordance with Hindu Law as understood by most eminent nibandhakaras and the principles laid down by the Privy Council. In Collector of Madura v. Mootoo Ramalinga 12 Moore's Indian Appeals 397 it is said at p. 436. 'The duty, therefore, of an European judge, who is under the obligation to administer Hindu Law, is not so much to inquire whether a disputed doctrine is fairly deducible from the earliest authorities as to ascertain whether it has been received by the particular school which governs the district with which he has to deal and has there been sanctioned by usage. For under the Hindu system of Law clear proof of usage will outweigh the written text of the Law'. In the case in 32 Bom. L.R. no usage about such marriages was alleged or proved. Their Lordships relied upon passages of Manu, Yajnavalkya and Vijnanesvara for the view that a marriage of a brahmana with a sudra was not forbidden. But their Lordships did not notice the express words of the Vyavaharamayukha that in the Kali (present) age all secondary sons except dattaka are prohibited. 'अत्र दत्तकभिन्ना गौणाः पुत्राः कलौ वर्ज्याः । दत्तौरसेतरेषां तु पुत्रत्वेन परिग्रह इति तन्निषेधेषु पाठात्' p. 107 of my edition. The Mayukha is a paramount authority in Guzerat from which the case came. The son of a brahmana from a sudra woman is calle nisada or parasara by Yaj. I. 91 and parasava by Manu (IX 178) and also saudra (Manu IX. 160). All the sons except the aurasa are declared by Manu (IX. 180) to be substitutes for the aurasa i.e. as secondary and the Mayukha distinctly says that all secondary sons except dattaka are forbidden in the present age. Hence the son of a brahmana from a sudra woman cannot be recognised as a son according to the Mayukha, whatever the views deducible from ancient smrtis may be Doctrines deducible from ancient sages (such as that of niyoga, unequal distribution of ancestral property among sons) are not accepted by nibandhakaras as applicable to the present age. The same rule should have been held applicable in the present case.

866. Compare Manu IX. 209, Yaj. II. 119, Visnu. 18. 43 and Br. p. 371 v. 12 In 5 Mad. H.C.R. 150 it was held that the rule was intended to apply strictly to hereditary property of which the members of the family had been violently or wrongfully dispossessed or adversely kept out of possession for a length of time.

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867. That wealth is said to be gained by learning which is acquired by means of learning received from another while subsisting on food furnished by a stranger.

868. When a matter (a doubt or difficult point) has been placed (before an assembly of pandits) with a wager, whatever is gained by (showing one's superior) learning is known as vidyadhana (gains of learning) it is not divided at a partition.

869-870. What is acquired from a pupil (i.e. by the profession of teaching), by performing the work of priest at a sacrifice, by propounding a question, by solving a doubtful point, by exhibiting one's knowledge by disputation with a rival what is gained by deep learning all this is declared to be vidyadhana and it is not divided at a partition.

The same is the rule even in the case of artisans and what ever is obtained (as a reward &c) over and above the proper price of an article (become the self acquistion of that member who sells it).

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867. This verse defines vidyadhana, which has been a fruitful source of litigation in modern times. Verses 867 - 873 elucidate what is meant by vidyadhana. Compare Manu IX. 206, Yaj. II. 119, Visnu 18. 42, Gautama 28. 28, Nar. p. 191. v. 11. This verse is quoted in Durgadat v. Ganesh ? All 105 (at p. 312) where it is said that the definition is not exhaustive but only illustrative and it was held that, where a person learnt some astrology from his father and left his father at 14 and then made a fortune, it was his self-acquisition. The following leading cases lay down the limits within which gains of learning may not be liable to partition : 2 Mad. H.C.R. 56, 6 Bom. H.R. p. 1, L.R. 4 I. A. 109, 15 Bom. 32, 45 Cal. 666 (= L.R. 45 I. A. 41), L.R. 48 I. A. 162 (= Lahore 40). But now the Legislature has intervened and by Act XXX of 1930 all doubts have been removed and it is laid down that a Hindu member of a joint family who receives education at the expense of the family can keep his earnings as his self acquisition, however high the expenditure may be.

868. For another meaning of 'upanyaste' vide my notes on V.M. p. 213.

869-870. 'By propounding a question' i.e. when a solution is given to a querry made by a sinner & c about the prayascitta for a sin; 'exhibiting one's knowledge' i.e. when there is a knotty sastric point or when the question is who is to be honoured first as the leader among learned brahmanas. 'The same is the rule & c'. The co-trast is between 'vidya' (purely literary studies) and silpa (arts and crafts). Whenever acquires an art by his own exertion and not at joint family expense keeps his earnings as his self-acquisition. 'Whatever is obtained & c'. If a member of a joint family is entrusted with the sale of an article belonging to the joint family and by his skill he sells it for a price far in excess of its real value or he gets a reward from the purchaser, the excess or reward is his separate property.

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871. After vanquishing an adversary in a wager what ever is obtained by (superior) knowledge should be known as vidyadhana (gains of learning) and is not liable to be partitioned. This is the view of Brhaspati.

872. What is gained by an assertion of one's learning, what is obtained from a pupil (i.e. by teaching) and what is acquired on the analogy of priests officiating at a sacrifice all these are known as vidyadhana, this is the view of Bhrgu.

873. What is obtained by the superiority of one's learning, and from a sacrificer (by officiating as a priest for him) and from a pupil (by teaching him) all this is declared to be viydadhana; acquisitions other than these are comman (i.e.jointly owned) with others.

874. Brhaspati declares that the wealth acquired by valour (in battle) by brothers who were instructed in the family or by the father is liable to be divided (among all the members of the family).

875. A learned man should never give to his unlearned kinsmen (brothers &c) anything from his gains of learning; but a learned man should give his gains of learning to those (of his kinsmen) who are equally learned or more learned than himself.

876. Where a reward was given by the king (or master) being pleased by the actions of a person who putting his own life in danger did an act of strength (or valour) whatever is thus obtained is the wealth due to valour.

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871. 'Superior knowledge' of dice or gambling.

872. 'By an assertion & c' by saying 'I alone of the assembled people know this science' and proving this to be true; 'rtvin-nyaya' is explained by the Sm. C and V.M. as 'upadarsana' (supervising a sacrifice & c). Vide Manu VIII. 206-210 about the rewards officiating preists at sacrifices.

874. 'Instructed in the family' i.e. instructed at the expense of joint family property or by the other members of the family such as the grand-father, uncle & c. In all cases of partition of vidyadhana the acquirer got two shares as laid down by Vas. 17.51.

875. The first half contains a prohibition against a learned man giving a portion of his self acquired vidyadhana to his brothers who are not learned. Compare Gautama 28. 28. Nar. p. 191 v. 11 says that out of wealth acquired by learning not imparted at family expense one need not give a share of it to his unlearned coheirs if he is unwilling to do so, but impliedly allows him to do so if he so wills.

876. This is Katyayana's definition of 'sauryadhana', which he distinguishes from 'dhvajahrta' (v. 878). Other writers like Narada (p. 190 v. 6) and Br. (p. 381 v. 78) put both under 'sauryadhana'.

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877. What is acquired by valour and by learning and what is known as wealth of the wife - all this is not liable to be partitioned by cosharers at the time of partition.

878. What is called 'dhvajahrta' is declared to be impartible. That is said to be 'dhvajahrta' which is recovered from a battle after putting one's life in danger of death for the king (or master) and after putting to flight the army of the adversary.

879. What is obtained at the time of marriage with a maiden of the same caste is known as 'kanyagata' (coming with a maiden) wealth; it is declared to be pure and as promoting prosperity.

880. That is known as 'vaivahika' (nuptial) which comes with the wife; all wealth of this sort should be known as the means of (performing) dharma (religious duties).

881. Whatever is given at the time of marriage as meant for the bridegroom, all that is the wealth of the maiden and it cannot be partitioned by the cosharers.

882-883. Money that is entered in a document, what ever is intended (or set apart) for a religious purpose, water, slaves, a nibandha that descends hereditarily, clothes that are worn on the body (every day), ornaments and whatever else that is not fit to be divided these should be so employed by cosharers that they may be enjoyed (in common by all of them) at the proper time.

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877. 'Wealth of the wife' - stridhana or bharyadhana is wealth which a man gets at the time of being married. Br. (p. 381 v. 78) and Nar (190 v. 6) speak of only 'bharyadhana'.

879 - 880. Manu IX. 206 and Yaj. II. 118 speak of 'vaivahika' or 'audvahika' as impartible. That is the same as the 'bharyadhana' of Nar. and Br. But Kat who has a great penchant for distinctions and definitions distinguishes between 'kanyagata' and 'vaivahika' both of which are really 'bharyadhana'. The V.M. explains 'kanyagata' differently. It is that wealth which a man obtains at the time of giving his daughter in marriage in the arsa form. But this is far - fetched. Vide Yaj. I. 59 and Manu III. 29 for arsa form.

881. 'Wealth of the maiden' i.e. wealth that may be called 'kanyagata' as in 879.

882. 'Money .... document' this means 'bond debts not yet receovered'. It is possible to take the first half of 882 as one clause (as the V.M. does) the meaning being 'what is entered in a document as set apart for religious purposes'. 'Nibandhah' - This is a technical word. It means 'a pension, a periodical payment in cash or kind or an allowance granted permanently by a king, a corporation, or a village to a person, temple or a family'. The Mit. on Yaj. II. 121 gives as examples 'so many betel leaves' from each bundle of betel leaves or so many betelnuts from each betelnut-load' (to be paid to a temple or brahmana or other person). The Sm. C gives as an example the agreement made by traders to deliver to a temple or brahmana every year or every month a fixed sum.

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884. A pasture for cattle, way, clothes (every day) worn on the body, money lent and what is set apart for religious purposes should not be divided; this is the view of Brhaspati.

884. A. Whatever is declared as the rule of law in a particular country, caste, group or village, (the king) should prescribe partition of heritage in accordance with that. (This is the view of) Bhrgu.

'Nibandha' is paraphrased as 'vrtti' by V. M. The word 'nibandha' is rendered as 'corrody' by Colebrooke in his Digest, but as observed by the Privy council in Fattesangji v. Dessai Kallianraiji L.R. II. A. p. 31 at p. 51 it is not a very happy translation. Vide Collector of Thana v. Krishnanath I.L.R. 5 Bom. 322 at pp. 331-32 (for a discussion of what is included in a nibandha); Collector of Thana v. Hari Sitaram I.L.R. 6 Bom. 546 (F.B.) at pp. 555 - 559; Lakshmandas v. Manohar I.L.R. 10 Bom. 149; Jatindra Mohan v. Ghanashyam I.L.R. 50 Cal. 266 at p. 271 (where an annuity was held to be a nibandha and various definitions of nibandha are given). 'Water' Rights to water and wells belonging to a joint Hindu family are ordinarily impartible and so the burden of proving that a well was exclusively assigned to one member at a partition is on him who alleges it; vide I.L.R. 36 Bom. 275 and 379. 'Clothes that are worn' - this means 'that clothes that are highly valuable and are worn only on festive occasions are to be divided' according to price. Vide Br. p. 382 v. 79 - 81 where he finds fault with Manu (IX. 219) and others for declaring that clothes and other things are impartible and suggests that they may be sold and the price divided & c. These verses of Kat are quoted in I.L.R. 30 Mad 340 at p. 344 and Khushalchand v. Mahadevgiri (1875) P.J. p. 276 refers to Kat and says that any portion once assigned for purposes of religion shall be excepted from partition so as to be kept available for its intended object. Compare Gautama 28. 44-45, Manu. IX. 219 and 200, Visnu. 18 44 Sankha - Likhita 'न वस्तुविभागे नोदकपात्रालङ्कारोपयुक्तस्त्रीवाससाम्, अपां प्रचारवर्त्मनामविभागश्चेति प्रजापतिः' quoted in V.R. p. 503), Kaut. p. 161 (उदकपात्राण्यपि निष्किञ्चना विभजेरन्नित्याचार्या). 884. It is better to read 'rathya' (way) for 'raksa' (which may mean 'a reserved pasture or forest'). If 'raksa' is kept 'gopracara' would mean 'way for leading cattle'. 'Pracara' has two meanings, 'way' or 'pasture'. Vide Shantaram v. Vaman I.L.R. 47 Bom. 389 at p. 396 for the meaning of 'pracara'. Compare Br. p. 382 v. 84 'Prayojya' was explained as 'a book' by Parijata (which says that they should not be divided with fools). Visnu 18 44 reads 'योगक्षेमं प्रचारश्च न विभज्यं च पुस्तकम्'.

884 A. This is practically the same as the last verse of the Kautilya on 'putravibhaga' (II. 7. p. 165) Manu II. 118 speaks of the dharmas of देश, जाति, कुल and गण.

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(Fresh partition as to concealed ancestral estate)

885. If (joint) wealth was concealed, but is afterwards found, the sons should divide it equally with their brothers in the absence (i.e.death) of the father.

886. Whatever was concealed from each other (by the cosharers) and what was divided in an unjust manner and whatever was recovered after (partition) should be partitioned in equal shares. This is the view of Bhrgu.

887. What ever wealth was acquired by a man after he became separate belongs to him alone (exclusively); but whatever is found after it was carried off (by strangers) or after it was (given up as) lost and what is mentioned already should be again divided.

888. (The king) should not by force compel the co-sharer to return (joint) wealth taken away by one cosharer; he should not make undivided coparceners to return (the price of the) enjoyment (over and above their proper share).

(partition of a joint field etc, even after a long time)

889-890. If a man, leaving the comman country, goes to another country, his share should be given to his descendant when he comes (to demand it); there is no doubt. Even if he (the descendant) be the third, fifth or even seventh (from the man who left the country), he would get the share that descends hereditarily on his birth and family name being ascertained.

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886. 'Divided in an unjust manner' i.e. divided by giving unequal shares; 'recovered after partiton' i.e. debts due from debtors of the family, if recovered after partition, should be equally divided. The meaning is that all cosharers are entitled to divide it and not he alone who finds out concealed wealth & c. Compare Manu IX. 218, Yaj. II. 126 Kaut. p. 161 'दुर्विभक्तमन्योन्यापहृतमन्तर्हि तमविज्ञातोत्पन्नं वा पुनर्विभजेरन्'.

887. 'Lost' a deposit or debt that was regarded as irrecoverable at the time of partition; 'mentioned already'. This refers to verse 886 viz. wealth concealed from other cosharers or inequitably divided.

888. The first half means that a cosharer who takes away more wealth out of the joint property than would properly fall to his share should be made to yield up by other modes than force (such as trick & c). Vide v. 478 above and Br. p. 384 v. 96. If when the family is undivided one cosharer has more enjoyment of the joint property than others (because he has more children or because other members are absent), he cannot be made to account for the extra enjoyment to his cosharers at the time of partition; because such excessive enjoyment by one is inevitable in a joint family. The Vir. reads 'nivartayet' which means 'the king should not prevent undivided cosharers from enjoying the joint property'.

889 - 890. 'Common country' i.e. the country where he and his cosharers lived. Vide Br. p. 373 vv. 24-25 for same verses. Compare Art. 127 of the Indian Limitation Act.

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891.The gotrajas (members of the family) should allow (a share in the ancestral) lands to the descendant of a man whom the maulas and neighbours know to be a co-owner (in the land) by descent, when he (the descendant) comes (after partition to demand his share).

892. if persons become separate as to ancestral wealth and then again begin to live together, they should again divide (their wealth after living together), but he who acquires property should get two shares.

(Indications of partition)

893. When for ten years brothers reside (separately) doing religious observances separately and have separate transactions, they should be known as separate so far as ancestral property is concerned.

(Definition of stridhana and the kinds thereof)

894. What was given before the nuptial fire, what was given at the time of the bridal procession, what was given to a woman through affection, what was received from the brother, mother or father - this stridhana is declared to be sixfold.

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891. The Sm. C explains that this applies only to lands (and not to movables) and a share will be allowed after the lapse of a long time only as to land. For the meaning of maulas vide v. 743 above. This is the same as Br. p. 374 v. 26.

892. This verse refers to a case where divided members again live together i.e. reunite and mix up their shares and one of them acquires more wealth with the help of the wealth that is reunited and so is common. In such a case the acquirer gets two shares and the other members who have joined together get one share each. If any one of the re-united members acquires wealth with his own efforts without detriment to the re-united wealth, he would keep it as his self-acquisition. This is the explanation given by the Dayabhaga following Srikara. Vide Vasistha 17.51 and Br. p. 381 v. 77.

893. 'Brothers' - this is illustrative and stands for all members of a family that was once joint; 'doing - separately' - the dharmas are such as Vaisvadeva; when members are joint, worship of gods, Vaisvadeva and other Mahayajnas and rites are one. Compare Manu IX. III, Gautama 28. 4 Nar. p. 198 v. 37 and Br. p. 370 v. 6. 'Transactions' such as bearing witness, lending money, standing surety & c. Compare Nar p. 199 vv. 38-40 and Br. p. 384 v. 92 Lalubhai v. Bai Amrit I.L.R. 2 Bom. 299 refers to this verse (at p. 309). This verse is almost the same as Nar. p. 199 v. 41.

894. Katyayana's treatment of stridhana is classical and the fullest of all smrti writers. This verse is practically the same as Manu IX. 194. The Mit. explains that the mention of six is not meant to exclude a larger number, but means that there cannot be less than six kinds. In Bhugwandeen v. Mynabai 11 Moore's Indian Appeals at 512 it is said that the Vivadacintamani and the Mayukha confine

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895. What is given to women (by anybody) at the time of marriage before (the nuptial) fire, that is declared to be adhyagni stridhana by the wise.

896. That again which a woman obtains when she is being taken (in a procession) from her father's house (to the bridegroom's) is termed stridhana of the adhyavahanika kind.

897. Whatever is given (to a woman) through affection by the father-in-law or mother-in-law and what is received at the time of saluting the feet of elders is termed pritidatta (gift through affection).

898. That is declared to be sulka, which is obtained as the price of household utensils, of beasts of burden, of milch cattle, ornaments and slaves.

899. Whatever is obtained by a woman after marriage from the family of her husband and also what is similarly obtained from the family of her (father's) kinsmen is said to be anvadheya (gift subsequent).

900. Whatever is obtained by a woman through affection after her marriage from her husband or from her parents, that is anvadheya. This is the view of Bhrgu.

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stridhana within the definition of Manu and Katyayana and that they exclude the property inherited and the other acquisitions which are comprehended in the last clause of the para of the Mitaksara. Compare Yaj. II. 143, Visnu 17. 18 for these and other kinds of stridhana. In the Taittiriya Samhita VI. 2.1.1 we read 'for the wife is master of house-hold gear'. This is the germ of the law of Stridhana. Ap. Dh. S. II. 6. 14. 9 says that the ornaments of a wife belong to her. Vas. 17. 46 refers to the marriage gifts of a woman and Baud. Dh. S. II. 24.4 says the ornaments of a woman go to her daughters. Gautama 28. 22-24 has three sutras on stridhana.

896. The V.R. (p. 523) says that when the married girl is taken back from the bridegroom's house to her father's, what is given by her father-in-law and other is also adhyavahanika and the V.C. says that it is what is obtained at the time of 'dviragamana'.

898. 'Sulka' generally means 'bride price' i.e. the price paid by the bridegroom for giving the girl in marriage. Vide Manu III. 51 who prohibits the taking of a sulka by the father of the girl for himself, but in III. 54 allows sulka being taken if it is kept apart for the girl herself. The Sm. C and Vir. explain it as the price of the articles which the bridegroom was in the habit of presenting to the bride at the time of marriage or when he started a home. The Dayabhaga explains that it is either that wealth which is obtained by a wife as a bribe from artisans for inducing her husband to embark on building a house & c or it is what is given to a married girl for inducing her to go to her husband's house.

899 - 900. The two verses convey practically the same meaning. Many digests omit 900. If v. 900 is really Katyayana's as the Dayabhaga and V.R. say, then Kat. is therein merely transcribling Bhrgu's view which somewhat resticts the

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901. That is known as saudayika which is obtained by a married woman or by a maiden in her husbands or father's house from her brother or from her parents.

(Discussion of ownership of stridhana)

902. The father, mother, the husband, brother and kinsmen should give stridhana to a woman according to their means up to two thousand (panas) except immoveable property.

903. Whatever was given to a woman on an occasion (or condition) or with a fraudulent intent by the father, brother or husband is not held to be stridhana.

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scope of anvadheya. Vide Manu IX. 195 which contains the word 'anvadheya'. In I.LR. 33 Cal. 315 the definition of anvadheya (v. 899) is quoted (at p. 320) and it is held that a permanent lease at a nominal rent granted by a father to his married daughter is her anvadheya stridhana. In Sitabai v. Vasantrao 3 Bom. L. R. 201 it is said that anvadheya extends to gifts from parents as well as to gifts from the husband (p. 206).

901. Saudayika is a technical word used in a peculiar sense by Kat. For its derivation vide my notes to V.M. p. 285. Saudayika comprehends several kinds of stridhana property. It is specially coined for saying that over Sandayika stridhana a woman has absolute power of disposal even during her husband's lifetime. It is that wealth which a woman receives from her brother or parents or their relatives but not from her husband or his relations. This is the interpretation of the Sm. C. and V.R. (p. 511), but the Dayabhaga reads 'भर्तुः सकाशात्' which runs counter to this explanation. In I.L.R. 39 Mad. 298 Katyayana's definition of saudayika is quoted (at p. 300), the views of the Sm.C and other digests are set out and it is held that a gift by a father of immoveable property to his daughter before marrige was saudyayika and at her absolute disposed. In 3 Bom. L. R. 201 at p. 207 it is said that Saudayika is not used to contradistinction to anvadheya in connection with succession.

902. The Sm. C Par. M and V.M say that this limit of 2000 panas is fixed with reference to payment each year. If they want to give to a woman only once in their lifetime or in several years they may give more than two thousand panas or give even immoveable property. Sm. C. quotes a similar verse of Vyasa. Kaut (III. 2. p. 152 text, p. 193 tr.) says that 'vritti' and jewellery constitute stridhana; vritti (may be given) upto two thousand as the highest limit and those is no limit as to jewellery'.Par M. III. p. 549 quotes Brhaspati 'दद्याद्धनं च पर्याप्तं क्षेत्रांशं वा यदिच्छति'.

903. If the father or husband gives some ornaments to his daughter or wife for wearing on some special occasion (upadhi means condition) or if a father or husband in fraud of his coparcencers gives some family property to his daughter or wife, that cannot become her stridhana.

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904. In that wealth which is obtained (by a woman) by mechanical arts or from a stranger through affection the ownership is of the husband; the rest is declared to be the stridhana.

905-906. On obtaining wealth of the saudayika kind it is held (lit.desired) that women have independant ownership (over it), since it was given by them (by the kindred) as a support in order that they may not be reduced to a terrible (or wretched) condition. It has been declared that women always have independance in saudayika wealth as regards sale or gift at their pleasure and even in immoveables (if saudayika).

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904. 'A stranger' i.e. from one who is a friend, but not the father or brother or other near relative. This verse according to the Dayabhaga and Vir. means that over such wealth the husband has complete power of disposal even when he is not in distress and the woman who acquires it has no power of gift or sale over it without the husband's consent. But the object of the verse is not to deny that it is stridhana at all. In Muthu Ramkrishna v. Marimuthu Goundan 38 Mad. 1036 this verse of Kat is quoted (at p. 1040) and it is held that all the texts recognise the wife's ownership in the property acquired by her own labour; they only restrict her right of alienation and make it subject to the wishes of the husband and that where husband and wife jointly earned profits in a trade and purchased properties, the properties were jointly of the husband and wife and on the wife's death her interest devolved on her heirs and not on the husband.

905 - 906. 'In order ..... condition' - this is the explanation of 'anrsamsyartham' according to V.R. p. 511; others explain it as meaning 'out of affection'; 'always' even during husband's lifetime. The Digests quote a text of Narada that ever gifts made by the husband through affection women have absolute power of disposal except over immoveables (which she cannot dispose of at her pleasure even after his death). vv. 905 - 906 are quoted in 1 Mad. H.C.R. p. 85 at p. 90 (note). Bhagirthibai v. Kahnojirao 11 Bom 285 (F.B.) refers to Kat on saudayika (at p. 302). In Bhau v. Raghunath I.L.R. 34 Bom. 229 these two verses and the definition of saudayika are quoted (on p. 238) and it is held that 'except as to the kind known as saudayika a woman's power of disposal over her stridhana is during coverture subject to her husband's consent and that she cannot dispose of such stridhana (other than saudayika) by will where the husband survives her and is not shown to have assented to the will. Vide Bhagavanlalal v. Bai Divali 27 Bom. L.R. 633 (where when a woman had lived 30 or 40 years apart from her husband; inherited property from her father and willed it way, it was held that she was in the peculiar circumstances of the case competent to dispose off by will without her husband's consent) where 30 Bom. 229 was distinguished. Vide Nathubhai v. Javer I.L.R. 1 Bom. 121 where verse 906 is relied upon (at p. 123)

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907. A woman, when her husband is dead, may deal with the gift given by her husband just as she pleases; but she should preserve it while he is alive; or she may spend (the affectionate gift of the husband) on his family.

908-910. If the husband has married two wives and he does not honour (reside with) her (one of them), he should be forcibly made to return (by the king the stridhana of the ill-treated wife) even when she bestowed it upon him through affection (for him) where food, raiment and residence are denied to (or withheld from) a woman, she may exact her own stridhana and also the share (that would have fallen to her husband on partition) from the coparceners (of the husband). This is the rule of law laid down by Likhita; when she recovers (her wealth) she should reside in the husband's house; if she is afflicted with disease she may at the time of death go to her kinsmen.

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for the proposition that a Hindu female is not on account of her sex absolutely disqualified from entering into a contract. Inspite of the text of Narada referred to above it was held in Mulchand v. Bai Mancha I.L.R. 7 Bom. 491 that an absolute bequest by a Hindu of his separate immoveable property to his widow confers on her as full dominion and power of alienation over that property as if the bequest had been made to a stranger.

907. This verse is variously interpreted. 'Bhartrdaya' is explained by the Sm. C as the stridhana given to a woman by her husband through affection', while the V.R. and V.C. take 'bhatrdaya' as meaning 'the husband's own property'. According to Sm. C. in 'pritidatta' stridhana from the husband a woman has after his death absolute power of disposal except over immoveables given by him and that during her husband's life she can dispose of the attectionate gifts of the husband only with his consent (even moveables). The last pada would also mean 'she may pass her day in her husband's family'. 'She should preserve it' - means 'she cannot dispose of it without his consent'. The verse as interpreted by V.R. and V.C. means 'a woman succeeding to her husband's wealth after his death because there is no son & c may dispose of it as she pleases, except immoveable property, and that when the husband is alive she can spend it only with his consent'. The V. R. (p. 512) says that Halayudha and Parijata took 'bhartrdaya to mean gifts of affection made by the husband and it prefers the view of Prakasa. I.L.R. 1 Mad. 281 quotes this verse at p. 286.

908 - 910. In II Moore's I. A. 487 at p. 511 and in 8 Mad. 290 at p. 291 this verse is quoted. 908 - 909 are ascribed to Devala by V.M. but other ancient and weighty authorities ascribe them to Kat. Both 908 and 909 refer to the husband only. 'Husband's house' - that is though the husband does not honour her, she must stay in her husband's house. This is the old Hindu sentiment to which classical expression is given in the Sakuntala Act V, verse 17.

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911-912. Neither the husband nor the son, nor the father, nor the brothers have authority (or power) over stridhana for the purpose of taking it (for themselves) or for giving it away (to others). If anyone of these forcibly consumes stridhana he should be made to return it with interest and should also be liable to a fine.

913-914. If a person (out of the husband, son etc), were to consume stridhana amicably after obtaining her consent, then he would be liable to return only the principle, when he becomes well off (or rich enough to pay). Whatever (of stridhana) was allowed (to be taken) by a woman through affection knowing that (her husband) was afflicted with disease, engulfed in misfourtune or harassed (or imprisoned) by creditors, the husband may return at his will.

915. The husband, the sons, the brothers-in-law kinsmen on the paternal side of a woman are declared to have no power over her stridhana while she is alive; those that deprive her of it should be fined.

916. That stridhana which was promised (to a woman) by her husband should be paid to her as a debt by the sons (of the husband), provided she resides in the husband's family. She should not reside with her paternal family.

911-912. Verse 911 is quoted in I.L.R. 1 Bom. 121 at p. 123 and I.L.R. 1 Mad. 281 (at p. 286); in the latter case it was held that a woman purchasing immoveable property with her stridhana may dispose of it by will. The Sm. C (III. p. 656) adroitly points out that by marriage a wife gets a sort of dominion over her husband's property, though she is subordinate to him, but the husband has not even that dominion over his wife's stridhana. With 912 compare Manu. IX. 200 and VIII. 29.

913-914. The Sm. C holds that verse 914 applies only to the husband, while V.R. and V.C. hold that it applies to all those enumerated in verse 911. If we look at Yaj. II. 147 where the husband alone is expressly mentioned, it appears that the interpretation of the Sm. C is the proper one. Kaut p. 152 (III. 2) closely follows Yaj (तदात्मपुत्रस्नुषाभर्मणि प्रवासाप्रतिविधाने च भार्याया भोक्तुमदोषः । प्रतिरोधकव्याधिदुर्भिक्षभयप्रतीकारे धर्मकार्ये च पत्युः ॥. Yaj II 147 is quoted in I.L.R. 50 Mad. 941 at pp. 944 and 946 and it is held that 'taken' means 'taken and used'.

915. Vide v. 912 and Manu VIII. 29 who says that the fine is the one for a thief.

916. 'The sons of the husband' i..e either her own sons or step-sons. This is only illustrative; even the grand-son would be liable to pay it, as he is liable to pay a debt of the grandfather; The first half is attributed to Devala in V.M. Compare verse 910 above.

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(Heirs to the wealth of a deceased woman)

917-918. Sisters having husbands should share with their brothers the stridhana of their mother; this is the rule of law and a partition (among the brothers and sisters) is prescribed. In the absence (i.e.on failure) of daughters the wealth (stridhana) goes to the sons (of the deceased woman); the wealth given by a woman's (paternal or maternal) kinsmen goes in the absence of bandhus to her husband

919. Whatever immoveable property was given by the parents to their daughter always goes to her brothers, if she dies without progeny.

917-918. There is a great divergence of view as regards the succession to stridhana among the smrti writers and the nibandhakaras. The Mit on Yaj. II. 145 speaks of two lines of devolution, one for sulka (following Gautama 28. 23) and the other for all kinds of stridhana other than sulka (following Gautama 28. 22, Yaj. II. 117 latter half). The Mayukha speaks of five different lines of devolution viz. for anvadheya and bhartrpritidatta; (II) for Yautaka; (III) for sulka; (IV) for stridhana of the technical kind other than the first three; (V) for stridhana which is not technical. The two verses 917 and 918 are apparently in conflict, the first saying that sisters whose husbands are living take along with brothers, while 918 says that sons succeed to stridhana only on failure of daughters. Therefore 918 must be interpreted to mean (in accordance with Gautama 28. 22) that unmarried daughters succeed in preference to married daughters and sons. Verse 917 applies to a case where there are no maiden daughters and it lays down that married daughters whose husbands are living succeed along with sons. The word 'sabhartrkah' excludes widowed daughters of the deceased woman when there are married ones. The V.R. says that verse 918 (first half) applies to marriage gifts, yautaka and gifts given by father only. With 917 compare Manu IX. 192 and vide the explanation of Mit. on Yaj. II. 145 of this verse of Manu, where it is made to mean that full brothers take equally the wealth of their mother and that full sisters do so. The verse of Manu does not mean according to the Mit. that the brothers and sisters succeed together. Br. p. 383 v. 87 and Nar. p. 191 v. 9 both say in a general way that stridhana goes to the children. The Sm. C. says that the latter half applies to the case of a woman married in any of the three forms of marriage, viz. asura, raksasa and paisaca. That half may also mean 'on failure (of seven sons) the wealth given by paternal or maternal relatives goes to such relatives and in their absence to the husband'. Compare with 917 Kaut 111 2. p. 153 'जीवति भर्तरि मृतायाः पुत्रा दुहितरश्च स्त्रीधनं विभजेरन् । अपुत्राया दुहितरः । तदभावे भर्ता' । and with 918 (latter half) Kaut 'शुल्कमन्वाधेयमन्यद्भाबन्धुभिर्दत्तं बान्धवा हरेयुः. The Mayukha has 'putragami' in 918. The दायभाग says that 918 applies to sulka and the Sm. C that is applies to a marriage other than the first five.

919. 'Without progeny' - this is illustrative here and in 92 and includes daughter's daughter and son and son's son also.

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920. That stridhana which was obtained by a woman from her parents in the forms of marriage beginning with the asura is desired (held) to go to her parents on failure of her progeny.

(Heirs such as the widow to the wealth of a sonless man)

921. A sonless (widow) preserving the bed of her husband (unsullied) and residing with her elders and being self controlled (or forbearing) should enjoy (her husband's property) till her death; after her the (other) heirs (of the husband) would get it (succeed to it).

922-923. When her husband is gone to heaven (is dead) the wife is entitled only to food and raiment if her husband was not separated or she may get a share in (ancestral) wealth till her death. (The widow) intent on serving her elders is entitled to enjoy the share allotted to her; if she does not serve (her elders), food and raiment should be assigned to her.

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920. 'In the forms of ..... asura' - i.e. in any one of the four forms asura, gandharva, raksasa and paisaca. These four forms are said to be unapproved and the other four, brahma, daiva, arsa and prajapatya are said to be approved forms. Vide Manu III, 21 and Yaj. I. 58-61 for the eight forms. The essence of the asura form is the receipt of a bride-price from the bridegroom. Compare Manu IX. 197 and Yaj. II. 145 who prescribes that on failure of progeny, stridhana goes to the husband if the marriage be in the brahma and other approved forms and to the father if it is in the asura and the other unapproved forms. Compare Kautilya p. 152 (text).

921. 'Should enjoy' - i.e., she has no power of sale or gift. 'Heirs' of her husband such as daughter, daughter's son, mother, father, brother & c. 'Being self controlled' the V.C. explains 'ksanta' as not spending too much. Compare Br. p. 377 v.v. 49-50 and Kaut (III. 2. p. 153) 'अपुत्रा पतिशयनं पालयन्ती गुरुसमीपे स्त्री धनमायुः क्षयाद्भुञ्जीत आपदर्थं हि स्त्रीधनम् । ऊर्ध्वं दायादं गच्छेत्'. I.L.R. 2 All 150 (F.B.) refers to this verse of Kat (at p. 152) and holds that subsequent unchastity does not cause a forfeiture in the case of a widow. This verse and v. 924 are the foundation of the rights of a widow and the reversioners after her death. In 5 Patna 646 at p. 678 this verse is quoted and it is held that a widow can make a gift of a small portion of immoveable property to the bridegroom at the time of her only daughter's marriage. Vide 5 Lahore p. 70 also. In Bhagwandeen v. Myna Baee 11 Moore's I.A. 487 at p. 511 this verse is quoted. 8 Mad. 290 at p. 292 quotes this verse and v. 924.

922-923. These verses mean that when the husband dies un-seperated (or re-united) his widow may at the choice of the other members get a share in the joint family property or she may be given only food and raiment. 'Elders' i.e. the father-in-law & c Verse 922 is quoted in I.L.R. 2 Bom. 494 at p. 511 and at p. 582 (F.B.).

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924-925. (A wife) who keeps (the honour of) the family would get the share of her husband, when he is dead, till her death; but she has no power for gifts, mortgage or sale, (A widow) engrossed in religious observances and fasts, fixed in (the vow of) celibacy, always intent on restraining (her senses) and making gifts would go to heaven even though sonless.

926. The widow, if chaste, takes the wealth of her husband; in default of her, the daughter (takes the wealth) if she be unmarried.

924-925. These verses do not absolutely forbid a widow from making a gift or sale of her husband's property; on the contrary Kat enjoins on her the duty of making gifts. As the V.M. says the prohibition as to gifts applies to gifts to bards & c. The Privy Council laid down in 8 Moo. I.A. 29 that 'for religious and charitable purposes and those which are supposed to conduce to the spiritual welfare of her husband 'a widow has very large powers of disposition. Verse 924 is referred to in Narasimha v. Venkatadri 8 Mad. 290 at p. 292 and it is held that the restrictions on the widow's power apply to both moveables and immoveables and in Bhugawandeen v. Myna Baee 11 Moore's Indian Appeals p. 487 it was held that both properties are included in the text of Kat Pandharinath v. Govind I.L.R. 32 Bom. 59 refers to this verse and holds that a Hindu widow is not competent to make a gift of moveables inherited from her husband (p. 70). In I.L.R. 42 Bom. 136 both verses are referred to (at p. 143) and it was held that a gift by a Hindu widow of 4/5 ths of her husband's property for the religious benefit of her husband was not valid. Vide 41 All. 130 at p. 145. 'Even though sonless' - It was believed that one to whom no son was born did not go to heaven; vide Ait. Br. VII. 3 'naputrasya lokostiti & c', Tai. Sam. VI. 3.10.5 (about the three debts), Satapatha Brahmana I. 7.2.1, Tai. Sam. I. 4. 46. 1 'prajabhiragne amrtatvam - asyam. 'An exception was made in the case of those who observed a vow of perpetual student hood. Compare Ap. Dh. S. I.1.4.29 and Manu V. 159-160 (where it is expressly said that a widow who observes perpetual celibacy after her husband's death goes to heaven even though sonlss just as ancient sages who observed perpetual studenthood went to heaven without sons).

926. Compare Manu IX 130, Nar. p. 201 v. 50, Br. p. 378, vv. 55-57 for the claims of the daughter. From Ap. Dh. S. II. 6.14.4 (duhita va) it appeas that her claims were not clearly recognised in his day. In a competition between unmarried and married daughters, the unmarried were preferred; vide the well-known sutra of Gautam 28.22. It is to be noted that Kat does not expressly require chastity in the case of the daughter, as he does in the case of the widow (before the latter can succeed as heir). In Aduyapa v. Rudrava I.L.R. Bom 104 this verse of Kat is quoted (on p. 114) and it was held that the daughter was not debarred from inheritance on the ground of incontinence. Vide also 1 All 46 (F.B.). In II Bom

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927. Of a sonless man (the heirs) are declared to be wife of good family, daughters on default of them father, mother, brother and (brother's) sons.

928. When a person dies separated (or in a state of separation) on default of sons, his father takes his wealth or his brother, or mother, or father's mother in order.

929. A wife who is full of evil deeds, who is immodest, who wastes property and who is given to adultery does not deserve (inherit) the wealth (of her husband).

930. Whatever a woman does that relates to (benefit in) future state (i.e. state after death) without the permission of her fathr, husband or son would become fruitless.

931. Heirless (property) goes to the king after keeping aside (wealth sufficient to provide) for the women, the servants and the sraddhas (of the deceased); the wealth of a brahmana learned in the vedas (when there is no heir) should be assigned to other learned brahmanas.

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285 (F.B) it was held that a daughter inheriting from her mother or father takes an absolute estate which on her death passes to her heirs, but this is not the law in Madras, Benares and Bengal. Vide L.R. 47 I.A. 213 at p. 223.

927. Compare Yaj. II. 135-136, Visnu 17. 4-11 for the order among these heirs. There was great divergence of view on the order of heirs. Vide Gautama 28.19 Ap. Dh. S. II. 6.14 2.4 Kaut p. 160 (who omits माता), Sankha - Likhita (अथापुत्रस्य स्वर्यातस्य भ्रातृगामि द्रव्यं तदभावे मातापितरौ लभेतां पत्नी वा ज्येष्ठा । quoted in Mit. ana Apararka.

928. Compare Manu IX. 185 and 217 where the father, brothers, mother and father's mother are mentioned as heirs.

929. This verse is quoted in 1 All. 46 (F.B.) at p. 49.

930. Yaj. I. 85 says that father, husband and sons protect a woman respectively in her maidenhood, married life and old age and a woman has no independence. The same idea is expressed here. If a woman performs certain observances for the benefit of her soul after her death without the permission of the father and the rest, she does not reap the fruit of those acts.

931. Compare Nar. p. 202 v. 52 for a similar provision for the 'women' (stri). The Mit. V.M. and other works say that 'women' here means 'the concubines of the deceased' since a king cannot take the wealth when the wife is living. That the king was the ultimate heir and that the property of an heirless brahmana did not go to the king are propositions laid down by all ancient writers. Vide Baud, Dh. S.I. 5.102 (तस्माद्राजा ब्राह्मणस्वं नाददीत परमं ह्येत-द्विषं यद् ब्राह्मणस्वमिति), Manu IX. 189, AP. Dh. s. II. 6.14.5 Gautama 28, 39-40, Vas. 17, 83-87 (who requires it to be given to those learned in the three Vedas and those who are virtuous); Vishnu 17. 13-14, Kaut p. 161 (अदायादकं राजा हरेत् स्त्रीवृत्तिप्रेतकदर्यवर्जमन्यत्र श्रोत्रियद्रव्यात्।

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932. In the absence (of sons, grand sons and great grand sons or the wife) the re-united coparceners are declared to take the wealth of (deceased re-united coparceners) and separated kinsmen of (deceased separated kinsmen), they being persons who mutually inherit though they are not the descendants of each other.

(Gambling and prize - fighting)

933. One should not resort to gambling which inflames the passions and greed (of men) which engenders bad characters, which is cruel, and causes loss of wealth to men.

तत् त्रैविद्येभ्यः प्रयच्छेत्). This verse is quoted in I.L.R. 2 Bom 573 at p. 608 and is the foundation of the right to maintenance of a concubine (against the heirs of the deceased) recognised in modern decisions. Vide I.L.R. 12 Bom. 26 (where it is held after quoting this verse that continued continence is a condition precedent to a concubine of a deceased person claiming maintenance); 26 Bom. 163 (where it was said that the concubine has no legal right against her paramour, but on the latter's death, she has a legally enforceable right against the heir if she continued to be a concubine up to the death of the deceased and was continent aftwerwards). This last case was approved of in L.R. 53 I.A. 163 (= 50 Bom. 604) where it was held that an avaruddha woman (a concubine) of the deceased can claim maintenance from his heirs out of the estate of the deceased, but it is not a condition that she should have resided in the same house with the deceased together with his wife and regular family. Vide I.LR. 48 Bom. 203 (where a kept mistress show husband was alive was not treated as a concubine entitled to maintenance from the heirs of her deceased paramour). 'The wealth of a brahmanana etc'. This direction of the ancient sages as to the wealth of a brahmana has not been respected in modern times. Vide Collector of Masulipatam v. Cavaly Venkata 8 Moore's Indian Appeals 500 at p. 527.

932. This verse is somewhat obscure. The translation is made according to V.C. and V.R; 'nirbijanyonyabhaginah' is explained by V.C. as 'ते हि परस्परं निरन्वयापरभागभाज इत्यर्थः'.

933. Gambling is one of the most ancient vices. Rgveda X. 34 is a hymn which contains the lament of a gambler. There are numerous references to gambling in the Vedas; vide Rg. I, 41.9; VII. 86.6; Vajasaneya Sam. 30.18 (aksa-rajaya kitavam). Panini (II. 1.10, II. 3. 57-58, IV. 4.2 and IV. 4.19) in several sutras explains words referring to gambling and mentions 'aksa' (dice) and 'salaka' as instruments of gambling. Ap. Dh. S. (II. 10.25 12-13) refers to gambling houses. Manu (IX. 223) defines gambling as that which is carried on with inanimate objects (like dice, draughts & c) and 'samahvaya' as that which is carried on by means of sentient beings (i.e. birds like cocks and animals like rams and bulls) Nar. p. 212 v. 1 and Br. p. 385 v. 3 make the same distinction. Manu IX. 224-227 condemns

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934. Since strife is certain (to follow) from gambling just as poison (is sure to issue forth) from the mouth of a serpent, therefore the king should stop this vice in his country.

935. If it (gambling) has to remain (has to be allowed) he (the king) should allow it to be done openly with an (ornamental) arch erected near the door (of the gambling hall) in order that respectable people may not be mistaken (about its real nature) and he should make it yield revenue (tax).

936. The keeper of the gaming house should make the gambling go on and should himself pay to the king (the latter's) dues. He (the keeper) should take from the defeated party ten per cent as his profit.

937. The keeper should give to the winner his money (out of his own pocket) and he should recover from the defeated gambler within three fortnights or at once; there is no doubt (about this rule).

938. Where (the throw) of a man playing with dies in gambling is the same as or double (of the previous throw) there the (former) gambler is the winner and his portection (from the other gamblers) is to be arranged for.

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gambling and calls upon the king to punish gamblers and vintners and to banish them from the kingdom; while Kaut (III. 20 p. 197 text) allows gambling under the supervision of the king's officers and Yaj. II. 199-203 also does the same and says that regulated gambling is helpful in detecting thieves. Br. p. 385 v. 1 refers to this divergence of views between Manu and other legislators.

934. 'Since strife & c' - compare Manu IX. 227, which is the same as Mahabharata Udyogaparva 37. 19.

935. Gambling may be carried on secretly or openly. Even Yaj. II. 202 prescribes that those who carry on gambling secretly should be branded and banished; 'with an arch & c' that is, it has probably an arch with a sign-board and from its exterior, it must have been clear to everybody that it was a gambling den and not an ordinary habitation. Compare Br. p. 386 v. 5 for gambling being allowed only if done openly.

936. Compare Nar p. 212 v.2 (for a closely similar verse) and Br. p. 386 v. 8, Yaj. II. 199; Kaut (III. 20 p. 198 text) allows only five percent to the keeper, besides the hire for supplying gambling accessories and for water and accomodation. The last half may also mean 'that he should take 10% as interest if the defeated party has not paid down the wager in cash'.

937. The reading 'kitavad dhana - samsaye' (he should recover at once when there is doubt as to whether the money will be forthcoming) is better.

938. The translation of this verse is merely tentative. Compare a similar verse in Nar. p. 213 v. 3.

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939. Or the gambler (himself) after giving to the king his share (of revenue) as declared, should carry on gambling openly. In this way he will be guilty of no fault.

940. The keeper of the gaming house should make the defeated gambler forcibly pay what (the defeated) has to pay in the same place (i.e. in the gaming hall) and not else where; since the procedure (in gambling matters) entirely rests with the keeper of the gaming house.

941. A person ignorant (of gambling) if defeated (in gambling) should be released (from his liability), but one who knows gambling should not be released if he is defeated in secret (gambling) when one knowing gambling has lost his all (in a wager), he should not be made to pay his all.

942. In disputes (among gamblers) in (deciding on) victory, in the matter of the gain (to the winner), and as regards the means (i.e.dies) of those who are (alleged to be) playing with false dice, the keeper of the gaming house, if he is honest, is the final authority.

943. In the case of mlecchas, candalas (lit. dog eaters), rogues, gamblers, ascetics the decision as to those who (are alleged to) have violated their conventions does not rest with the king.

(Miscellaneous)

944-946. Whatever was omitted in the preceding discourse (on the titles of law), and whatever is cut off from its proper context, what is taken from another system of knowledge and is not quite appropriate, what is stated at the close of the sastra (i.e.of the dharmasastra) by way of illustrations and occupies the position of being (more or less) a repitition:- those passages which are set forth in this way are called prakirnaka. The duties of kings, one's own duties and disquisition on doubtful matters and what is omitted from the preceding discourse all this is prakirnaka.

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939. This verse is an exception to the rule mentioned by Br. p. 385 v. 2 that gambling should be carried on under the eye of a master of the gaming house. 'The gambler' includes also the plural. 'No fault' i.e. he will not be guilty of depriving the state of its revenue and of engaging in gambling unauthorizedly. Compare Nar. p. 213 v. 8 which is the same.

941. Compare Br. p. 386 v. 7

942. The idea is that the king should not take upon himself to decide their disputes, but should assign that work to other gamblers etc. who alone are proper judges (and witnesses also) in such cases. Vide Yaj. II. 202 (first half), Nar p. 213 v. 4, Br. p. 386 v. 6 for the same idea.

944-946. There is some difference as to the exact meaning of 'prakirnaka'. Manu (VIII. 4-7) does not enumerate among his eighteen titles such a separate title as 'prakirnaka'. Yaj. does not expressly name the word nor does he define it, but

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947-948. (Fixing) a proper share (of the produce) as the king's dues of subsidies (from vassals) and of tolls, what is to be paid at the pits, divulging (the secrets) of a battle or conspiring with thieves, assault on another's wife, desire to kill (i.e.attempt to kill) cows and brahmanas, destruction of crops-these ten wrongs the king should himself look into (i.e.should start and investigate).

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according to the Mit (and other digests) the last few verses (295 - 307) of his second chapter (on Vyavahara) treat of 'prakirnaka'. This word literally means 'scattered about'. Nar. p. 214 vv. 1-4 sets out the subjects that fall under this head, the first of which is 'transgression of the king's commands' and the last is 'whatever is omitted from the discussion of the preceding titles of law' and Br. p. 386 v. 1 says that prakirnaka comprehends those cause that are instituted by the king himself (and not by a private person). It is therefore that the Mit. (on Yaj. II. 295) says that judicial investigation which is started by the king himself is prakirnaka. Kat mentions only a few out of the thirteen subjects that Narada enumerates. In verses 949 - 951 Kat mentions some of the topics that fall under parkirnaka according to Narada. Tantra means 'siddhanta' (propositions propounded in a system of knowledge or philosophy). Compare Nyayasutra I. 1.28.31. It is difficult to connect the accusatives in 'dharman' in v. 946 and to say definitely what 'svadharma' here means. We should probably read 'rajdharmah svadharmasca' and 'svadharma' may be taken to mean 'the attributes of the soul'.

947-948. It is probable that the proper reading is 'sadbhaga' (1/6 of the produce). Kaut (II. 15 p. 93) and Manu VIII. 307 distinguish between 'sadbhaga' and 'kara', though very often 'kara' simply means 'tax'. Kaut (II. 21 and 22) has two chapters on the superintendent of tolls (called sulkadhyaksa) and on the levying of tolls. According to ancient ideas the king was entitled to one-sixth of all wealth (which was called his 'vetan', wages in Santiparva 71 - 10) and also of the merit (punya) of his subjects. Vide Baud Dh. S. I.10.1 (षड्भागभृतो राजा रक्षेत्प्रजाम्) Gautama X. 24 (6th was the maximm), Vas. I. 42-44 (राजा तु धर्मेणानुशासन् षष्ठं धनस्य हरेत्। अन्यत्र ब्राह्मणात्। इष्टापूर्तस्य तु षष्ठमंशं भजतीति), Manu. VII. 130-132 and VIII. 305. It is difficult to say what 'garta' (pit) means; probably the reference is to mines. Vide Kaut (II.12) on mines as a royal preserve and also Visnu 3-55. Under Sec. 69 of the Bombay Land Revenue Code, all mines and minerals belong to Government, except where Government has alienated its rights. For ten aparadhas mentioned by Pitamaha vide note to v. 27 above. For including the fines for ten aparadhas in royal grants vide grant of Dhruvasena of Valabhi (619 - 20 A.D.) in E.I. vol. I. p. 85 and also in E.I. I. 55, E. I. vol. VI p. 196. According to Narada quoted in Sm.C. III. p.63 transgression of commands, killing a female, confusion of castes, illicit intercourse with another's wife, robbery, pregnancy from a man other than the husband, abuse, insulting (or obscene) language, assault and abortion were ten aparadhas. Vide Nar. p. 234 vv. 11.12.

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949-950. Non-performance of prayascittas (penances), transgression of (royal) commandments and arrest (asedha), the obliteration (or destruction) of (the duties of) the varnas and asramas (the four stages of life), the prevention of the confusion of castes, (finding of) treasure-trove, (accumulation of) wealth without useful employment of it, (sudden) accession of riches in the case of an indigent man, - after clearly ascertaining these through spies, the king should himself employ preventive measures.

951-952. Matters on which no express provisions are found in the sastras, the wranglings of disputants about the burden (or means) or proof, fomenting (discensions or hatraed) among the constituent elements of the state, the mutual conventions (to be observed) by the constituent elements of the state), whatever actions not permitted by the sastras come into vogue among the subjects these the king should (try to) settle (or reduce) by such expedients as conciliation, division &c.

953. (The king) should employ the punishment of words towards his allies (or friends), the punishment in the word 'fie' in the case of ascetics. Whatever is expressly declared (in the sastra for a certain offender) that should be done in his case; if nothing is said (in the sastra) then the (the king) should well prescribe (the proper punishment).

949-950. For 'asedha' vide note on v. 104. It would be better to read 'kopanam' (fomenting or provoking) for 'lopanam'. 'Treasure - trove' the ancient Hindu Law on this point was that the finder of treasure - trove if he informed the king was to get one sixth and the rest went to the king, that if the finder was a learned brahmana he could keep the whole and that the king was to seize the whole and also inflict a fine if the finder did not inform the king. Vide Gautam X. 43-45, Vas. III. 13, Manu VIII. 35-39, Yaj. II, 34, Visnu III. 56-64. The Indian Treasure - trove Act (VI of 1878) requires the finder to give notice in writing to the Collector of the District (sec. 4) and prescribes that on failure to give such notice he will forfeit the treasure and be punishable with one year's imprisonment or fine or both. 'Accession of riches etc' - the king was to investigate how a poor man at once became rich (whether it was by theft or other offences).

951-952. 'Matters etc' - compare Manu XII. 108 (where also the word 'anamnata' is used). The reading should be 'kriyavadasca'. The meaning of 'kriyavadasca vadinam' is not quite clear; 'constituent elements of the state' there are seven such elements (prakrtis) according to Manu IX.294 (the king, the ministers, the country, the treasury, the fortified capital, army and allies are the seven) and Kaut. (VI. 96 p. 257); 'whatever actions etc' compare Yaj. I. 361; expedients' of royal policy are four; vide notes on v. 192 above and Manu VII. 107.109.

953. Vide notes above on v. 481 where the four kinds of danda, viz. vak, dhik, dhana and vadha are mentioned. Compare Br. p. 387 vv. 4-8.

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954. He who succeeds in his cause by means of false evidence (document) or by a false seal, should be made to pay the highest amercement.

955. Those who are addicted to the pastimes (specially reserved) for kings, those who betake to the avocation of the king, those who are given to speaking what is distasteful (to the king) should be awarded corporal punishment.

956. Those who imitate the king in his appearance (dress &c), those who become spectators (when they should be doing their duties), those who recover more taxes (than are due) and those who steal the king's wealth should be punished with various corporal punishments.

957. The king should punish a sudra, who forsakes the order of sannyasins (after having entered it) and who intently practises japa (silent muttering of prayers) and homa, with death (or corporal punishment) or he should be punished with double the fine.

958. (The king) should ask the culprit when (caught) red handed the reasons why he committed the offence and then he prulit home to him, he (the king) prescribe the punishment.

959. When an offence is committed by any one, who is well-conducted through helplessness or ill-luck, in that case (the king) should not prescribe a punishment.

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954. Vide Manu IX. 232, (who prescribes death for manufacturing a false royal edict), Yaj. II. 295 (who prescribes highest amercement for making unauthorised alterations in royal edicts). Sankha - Likhita (कूटशासनप्रयोगे राजशासनप्रतिषेधे कूटतुलामानप्रतिमानव्यवहारे शारीरोङ्गच्छेदो वा'quoted in V.R. p. 369).

955. 'Pastimes etc' - we have to understand 'without the permission of th king' here and in the next clause; 'betake to the avocation of the king' i.e. those who take upon themselves the function of protecting the people (without the king's permission); 'those who are given to & c' the punishment is prescribed for persistent indulgence in uttering what is distasteful to the king (viz. praising his enemies & c). Compare Yaj. II. 302-303 for punishment for persisent utterance of what is distasteful and riding the king's own horse or sitting on his throne.

956. 'Spectators' - those who look on dancing & c that is going on before the king neglecting their duties as servants of the king; 'those who recover'. The V.R. p. 369 explain that those who take fine in excess of those declared by the king are meant.

958. 'Sacihnam' may also mean 'after branding on the forehead'. For various grave offences branding on the forehead was prescribed by Manu IX. 237 and 240.

959. 'Through helplessness or ill-luck' i.e. through fear or through mistake.

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960. Kings who prescribe proper punishments are (the king) should award the first part of a fine for only beginning (an offence), the middle part for being in the midst of doing it; the (full punishment prescribed (in the texts) for an offence is to be awarded when the whole offence is completed.

961. Kings and especially ministers would get this (hell) by not punishing sinners and by punishing those who how (to the law).

962. Those who are dependant on another, and those who are reduced to slavery these are said to be not their own masters. Beating is (the only) punishment in their case.

963. Beating (whipping), imprisonment and making him a laughing stock - these are the punishments (proper) for a slave; monetary punishment is not prescribed (for him).

964. The man who deserves capital punishment should be made to pay one hundred suvarnas (as fine in lieu of death sentence); one deserving of having a limb cut off (should be made to pay) half of that (i.e.50 suvarnas); one desverving banishment (should be made to pay) twenty-five (suvarnas).

965. In the case of offenders who are of high family or are respectable or possessed of good qualities, but who are not well off, (the fine should follow) the above proportions; or having seized their all (when they are not well-off) the king should quickly banish these from the capital.

966. Those who have no wealth should be kept in jail; (the king) should not carry out the death sentence. In the case of all offenders, special procedure (as to punishment) should be observed in accordance with the (rule of sastras).

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960. When a completed offence is constituted by several acts each of which is punishable, this verse prescribes a fourth part of the fine for the completed offence, if only the first of the several acts constituting the complete offence is perpetrated; half the punishment is prescribed when half of the acts constituting the full offence are committed.

961. Read 'enam' for 'evam', which latter makes no sense; 'bow to the law' i.e. who are on the right path and so do not deserve punishment. Compare Manu VIII. 128 (who speaks of hell for doing this).

962. 'Dependent on another' - such persons as wife, sons & c; 'beating' they are not to be fined, but only corporal punishment is to be inflicted on them.

963. 'Making him & c' i.e. tonsuring his head or making him ride an ass.

964. For suvarna vide notes to v. 494; compare Br. p. 388 v. 12 for a very similar verse.

965. 'Should follow & c' that is if a hundred suvarnas cannot be had, then a reduced fine may be awarded.

966. This seems to ordain that death sentence should be as rare as possible.

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967. A brahmana who is guilty of an offence punishable with death or cutting off a limb should sit in a jail without having to do anything. He is (in that way) prevented from doing bad acts. That (keeping him in a jail without allowing him to do his religious duties) becomes the proper punishment for him.
968. (A brahman)a who gives false evidence should be banished, a brahmana who accepts a gift from a sinful person should be proclaimed (to all people), one who is guilty of cutting a limb of another should be deprived of the performance of his regligious duties by being sent to jail.
969. In the case of those who are guilty of offences similar to these, similar punishements should be prescribed (by the king). In the case of minors, old men diseased persons and women, there is no punishment but that of beating.
970. A king who follows the law should make (a women offender) pay a fine out of her stridhana; but a woman guilty of an offence who has no wealth deserves beating as punishment.
971-972. What is unjustly acquired (by the king) should be consigned to the treasury; the treasury should be used for doing (meritorious) works; (otherwise) the king's undertakings will be destroyed; a wise (king) should not bring about destruction (of himself). All that wealth that arises from fines should be bestowed on (learned) brahmanas and after transferring the kingdom to his son, the king should betake himself to the forest.
973. The king being always intent on observing the rule (of the sastra) should act in this manner and should employ all his servants for the welfare of the people.

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967. This refers to a brahmana offender who was well conducted and devoted to his duties till then; he should be confined in a jail and should not be allowed to do his duties. If we read 'tadakarma' the sense becomes easier; 'he is then not able to do his usual religious duties'. Compare Br. p. 388 vv. 10-11 (who forbids capital punishment for a brahmana and recommends shaving, branding and banishment, instead) Manu VIII. 379, Gautama 12, 43-44, Baud. Dh. S. I. 10. 17-18.
968. Manu VIII. 123 and Yaj. II. 81 prescribe banishment for a false brahmana witness and monetary fine for false witnesses of other castes. Manu II. 185 enjoins upon a brahmana brahmachari not to beg at the houses of grave sinners. Manu X. 76 says that ordinarily a brahmana was to accept gifts from a pure person, while X. 103 allows him to accept gifts from censurable people in times of adversity; but X.109 says that gifts from unworthy persons are worse than even teaching those who should not be taught or officiating as priest for those for whom it should not be done. Narada p. 220 v. 40 enumerates people from whom gifts should not be accepted.
971-72. Verse 971 cannot be easily construed. It refers to fines wrongly imposed. Yaj. II. 307 says that the king should offer to Varuna (who is the king of kings) 30 times the fine wrongly imposed by him and should then distribute it among brahmanas. Manu (IX 244-45) asks the king to throw into rivers or to distribute among brahmanas all fines imposed upon great sinners and not to put them in his treasury through greed. Manu VI. 1 off speaks of the order of forest hermit (vanaprastha).

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Annexure

Additional Verses of Katyayana on Vyavahara

By

K.V. Rangaswami Aiyangar, Madras

In editing, with my colleague and former pupil Mr. A.N. Krishna Aiyangar, M.A., L.T., of the Adyar Library, the famous South Indian Digest on Vyavahara prepared by Varadaraja, who is undoubtedly older than Madhava, and is perhaps anterior even to the author of the Smrticandrika, I have come across a number of slokas on Vyavahara, which are not found in Mr. KANE's splendid and laborious reconstruction of the lost smrti of Katyayana. Mr. KANE had laid under contribution 21 nibandhas and collected from them 973 verses bearing on the eighteen titles of Vyavahara. One hundred and twenty one verses not found in the Katyayana smrtisaroddhara are now offered from Varadaraja's digest, which, being in manuscripts written in Grantha characters, was not available to Mr. KANE, when he made his collection. I cannot think of a fitter form in which my tribute to his magnificent services to Dharmasastra can be offered to Mr. KANE. It will be noticed that verse 57 in this collection is ascribed by Varadaraja to both Brhaspati and Katyayana.

In verse 101 Katyayana mentions a Saunaka. Not improbably this ancient smrtikara is identical with the Saunaka whose name occurs in a famous verse of Manusmrti (III, 16) :-

शौनकस्य सुतोत्पत्या तदपत्यतया भृगोः ।

A more interesting feature is the identity of some of the slokas presented below with verses in Manusmrti (eg. verses 85, 94, 96, 97, 98, 99, 118, 119 and 120). As the verses are ascribed to Katyayana is all the manuscripts of Varadaraja's Vyavaharanirnaya, and as familiarity with the text of Manusmrti may be validly presumed in both Varadaraja and the scholarly copyists whose transcripts have been by us in preparing our edition of his work, the citation may be taken as evidence of the South Indian belief in their being common to both smrtis. The palm-leaf manuscript serves like a card-index and citations, which are made obviously from such manuscripts, cannot be summarily dismissed as containing errors due to bad memory.

A verse in Mr. KANE's collection (verse 265) presupposes a definition of a jayapatra by Katyayana himself, which, however, was not available to Mr. KANE. Verses 22 and 23 below supply the

Varadaraja knows of a Vrddha-Katyayana, for, verse 701 in Mr. KANE's collection, which he has taken from Sarasvativilasa, p.320, (ed. Mysore) is ascribed by Varadaraja to Vrddha - Katyayana.

The page references below refer to our edition of Varadaraja's Vyavaharanirnaya, which will soon be released, and the headings under which the new citations should come are indicated seriatim.

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कात्यायनसारोद्धारे अविद्यमानानि वरदराजीयव्यवहारनिर्णयोद्धृतानि कात्यायनवचनानि

व्यवहारपरिकरकाण्डे

श्रुतिस्मृतिविरुद्धं च भूतानामहितं च यत् ।
न तत्प्रवर्तयेद्राजा प्रवृत्तं च निवर्तयेत् ।। १

असच्छास्त्राधिगन्तॄणां समूहः पुञ्ज उच्यते ।
कारुशिल्पिप्रभृतीनां निवहः श्रेणिरुच्यते ।। २

पूगश्रेणिगणादीनां भवेयुः कार्यचिन्तकाः।
शुचयो वेदधर्मज्ञा दक्षा दान्ताः कुलोद्भवाः।। ३

कर्तव्यं वचनं तेषां समूहहितवादिनाम् ।
पूगनैगमपाषण्डसङ्घानामप्ययं विधिः ।। ४

प्रातिलोम्ये प्रसूतानां तथा दुर्गनिवासिनाम् ।
वर्णानां नियतं धर्मं न्यायोपेतं न चालयेत् ।। ५

अनिर्दिष्टाश्च ये कुर्युः व्यवहारविनिर्णयम् ।
राजवृत्ते प्रवृत्ता ये तेषां दण्डं प्रकल्पयेत् ।। ६

आवेदनकाण्डे

विरुद्धं चाऽविरुद्धं च द्वावप्यर्थौ निवेदितौ ।
एकस्मिन् यत्र दृश्येते तं पक्षं दूरतस्त्यजेत् ।। ७

न केनचित् कृतो यस्तु सोऽप्रसिद्ध उदाहृतः।
अन्यार्थश्चार्थहीनश्च निराबाधः प्रकीर्तितः।। ८

अल्पापराधश्चाल्पार्थो निरर्थक इति स्मृतः।
कार्याबाधविहीनस्तु विज्ञेयो निष्प्रयोजनः।। ९

असंभाव्यमसिद्धं तत् पक्षमाहुर्मनीषिणः।
यस्मिन्नावेदिते पक्षे प्राड्विवाकेऽथ राजनि।। १०

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पुरे ग्रामे विरोधः स्यात् विरुद्धः सोऽभिधीयते।
अभियोगानुरूपेण तस्य दण्डं प्रकल्पयेत् ॥ ११

व्यवहारमातृकाकाण्डे

मिथ्यासंप्रतिपत्या वा प्रत्यवस्कन्दनेन वा ।
प्राङ्न्यायविधिसिद्ध्या वाऽप्युत्तरं स्याच्चतुर्विधम् ॥ १२

तथ्ये तथ्यं प्रयुञ्जीत मिथ्यामिथ्या च लेखयेत्।
कारणं कारणोपेते प्राङ्न्याये तु जयं तथा ॥ १३

उन्मत्तमत्तनिर्धूतमहापातकदूषिताः।
जडान्धवृद्धा स्त्रीबाला विज्ञेयास्तु निरुत्तराः॥ १४

स्वभावाल्लिखिते वाक्ये प्रारब्धे कार्यनिर्णये ।
अनुक्तं तत्र यो ब्रूयात् तदर्थात्स तु हीयते ॥ १५

पूर्वोत्तरे तु लिखिते प्रकान्ते कार्यनिर्णये।
द्वयोः सन्तप्तयोः सन्धिः स्यादयःखण्डयोरिव ॥ १६
साक्षिसभ्यविकल्पश्च भवेद्यत्रोभयोरपि ।
डोलायमाने कार्ये च तत्र सन्धिः प्रवर्तते ॥ १७

प्रमाणसमता यत्र भेदः शास्त्रचरित्रयोः।
तत्र राजाज्ञया सन्धिरुभयोरपि शस्यते ॥ १८

यदा साक्षी न विद्येत विवादे वदतां नृणाम्।
तदा दिव्यैः परीक्षेत शपथैश्च पृथग्विधैः॥ १९

Verses 259 to 264 in the Katyanasmritisaroddhara define the context of a pascatkara. Verse 265 defining a jayapatra says :

अन्यवाद्यादि हीनभ्यः इतरेषां प्रदीयते ।
वृत्तानुवादसंसिद्धं तच्चस्याज्जयपत्रकम् ॥

This evidently presupposes a previous definition of the jayapatra by saying 'this is also a jayapatra'. The present verses supply the definition not included in the Katyayanasmrtisaroddhara by Mr. Kane and fits in between verses 264 and 264.

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स्त्रीणां शीलाभियोगे च स्तेयसाहसयोरपि।
एवंविधो विधिर्दृष्टः सर्वार्थापह्नवेषु च।। २०

देवसाध्ये पौरुषेयं न लेख्यं वा प्रयोजयेत्।। २१

मानुषप्रमाणकाण्डे

यथोपन्यस्तसाध्यर्थसंयुक्तं सोत्तरक्रियम्।
सावधारणकं चैव मुद्रितं राजमुद्रया।। २२

सभासन्यस्तचिह्नं च वादिप्रत्यर्थिसंयुतम्।
प्राड्विवाकादिहस्ताङ्कं जयपत्रकमिष्यते ।। २३

देशाचारविरुद्धं यत् व्यक्ताधिकृतलक्षणम्।
तत्प्रमाणं स्मृतं लेख्यमविलुप्तक्रमाक्षरम् ।। २४

X X X X X X

सन्धौ कृते तु यत्पत्रं सन्धिलेख्यं तदुच्यते। २५

X X X X X X

देशाचारस्थितियुतं करलेख्यादिकं स्मृतम्।
समामासादिहीनं तु प्रमाणं तद्भवेऽपुनः ।। २६

स्त्रीबालार्तालिपिज्ञानां वञ्चयन्ति स्वबान्धवाः।
लेख्यं कृत्वा स्वनामाङ्कं ज्ञेयं युक्त्याऽऽगमादिभिः।। २७

जडमूकान्धबालाज्ञक्रुद्धरोगार्तभीरुभिः।
अस्वतन्त्रोपधादुष्टैः कृतं लेख्यं न सिद्ध्यति।। २८

समामासादिहीनं च देशाचारविरोधि च ।
विलुप्तक्रमवर्णं च शृङ्गहीनं च दुष्यति।। २९

पूगश्रेणिगणादीनां साक्ष्यं स्वेषु विधीयते।
सम्यक् क्रियापरिज्ञाने देयः कालस्तु साक्षिणाम्।। ३०

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असन्दिग्धं यत्र साक्ष्यं तत्र सद्यो विनिर्णयः।
सन्दिग्धं यत्र साक्ष्यं तु तत्र दिव्येन निर्णयः।। ३१

अथैते साक्षिणः सर्वे साधवोऽर्हन्ति साक्षिताम् ।। ३२

प्रत्यर्थिनोऽर्थिनो वाऽपि साक्षिदूषणसाधने।
प्रस्तुतार्थोपयोगेन व्यवहारान्तरं न च।। ३३

जिता स विनयं दाप्यः शास्त्रदृष्टेन कर्मणा।
यदि वादी निराकाङ्क्षः साक्षिष्वेव व्यवस्थितः।। ३४

विहायोपानदुष्णीषं दक्षिणं पाणिमुद्धरेत्।
हिरण्यगोबीजदर्भान् समालभ्य मतं वदेत् ।। ३५

भावितैः साक्षिवादे तु परितोषमनागते।
अभियोक्तरि दिव्यादीन् प्रत्यर्थिनि च दृश्यते् ।। ३६

अभियोक्तारमागच्छेत् व्यवहारपदं पुनः।
प्रत्यर्थिनस्तु तत्सर्वं साक्ष्येणैव विनिर्णयः।। ३७

वत्सराणां तु नवतिरथवा स्यात् त्रिपूरुषी।
अतःपरं प्रमाणं स्यात् भुक्तिरेवागमाद्दते।। ३८

वर्षाणि विंशतिर्यस्य भूमिर्भुक्ता परैरिह।
सति राज्ञि समर्थस्य तस्य सेह न सिद्ध्यति ।। ३९

स्वद्रव्यं दीयमानं तु तत्स्वामी न विरोधयेत् ।
रिक्थिभिर्वा परैर्वाथ दत्तं तेनैव तद्भवेत्।। ४०

पश्यन्नन्यस्य ददतः क्षितिं यो न निवारयेत्।
स्वामी सतापि लेख्येन न स तां लब्धुमर्हति।। ४१

दिव्यप्रमाणनिर्णयकाण्डे

शते विषं तु पादोने हुतभुक् तत्र दीयते।
आपस्त्रिभागहीने तु शतार्धेन तुला स्मृता।। ४२

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तदर्धे तण्डुला देयाः तदर्धे तप्तमाषकः।

ऋणादानकाण्डे

प्रच्छाद्याधिमृणी कुर्यात् क्रयादीन् बलतश्च यः।
दण्डं स त्रिगुणं दत्वा पुनराद्यर्थदो भवेत् ।। ४३

भोगाधिक्यं च भाग्यादेः ह्रासं च न विचालयेत।
लेख्ये तु लिखितं यावत् तावद्भोक्तव्यमेव तु ।। ४४

स्रोतसाऽपहृते क्षेत्रे राज्ञा चैवापहारिते।
आधिरन्योऽधिकर्तव्यो देयं वा धनिने धनम्।। ४५

कूपवप्रखलप्राया अधिप्राहेण नाशिताः।
विनाशका भवन्त्याधेरेवंरूपास्तथा परे।। ४६

मूल्यग्रहणकालार्घात् वैगुण्यं कालतो भवेत्।
मूल्यमेव ऋणी दद्यात् न वृद्धिं दातुमर्हति।
द्विगुणे कालिकेऽर्धे तु मूल्यं तद्द्विगुणं भवेत्।। ४७

पूर्वं पैतामहं देयं पित्र्यं देयं ततः परम्।
पश्चाद्देयं तथाऽऽत्मीयमेवं देयमृणं सुतैः।। ४८

निक्षेपकाण्डे

उपेक्षणाद्विरोधाद्वा निक्षिप्तस्य विनाशने।
निक्षेप्त्रे तत्प्रदेयं स्यात् न दैवाद्राजतस्तथा।। ४९

यच्च स्वकार्यसिद्ध्यर्थं प्रतिदेयं यथा तथा।
याचित्वा प्रगृहीतं तु तद्याचितकमुच्यते।। ५०

निक्षेपं वृद्धिशेषं च क्रयं विक्रयमेव च।
याच्यमानं न चेद्दद्यात् वर्धते पञ्चकं शतम्।। ५१

यो याचितकमादाय न दद्यात्प्रतियाचितः।
स निगृह्य बलाद्दाप्यो दण्ड्यश्च न ददाति यः।। ५२

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क्रयमूल्यं करार्थं च निक्षेपापह्नवे तथा।
चक्रवृद्ध्या विवर्धेत यावत्पञ्चगुणं भवेत्।। ५३

त्रिपक्षात्परतोऽर्धं स्यात् त्रिमासात् त्रिगुणं भवेत्।
अथ ऊर्ध्वं विवर्धेत चक्रवृद्धिव्यवस्थया।। ५४

अस्वामिविक्रयकाण्डे

दत्तक्रीताभिधानां तु विरोधे निष्क्रयो भवेत्।
क्षेत्रं तत्सदृशं दद्यादशक्तः तुष्टिमावहेत् ।। ५५

सम्भूयसमुत्थानादिदशपदकाण्डे

शिक्षकाः कर्मकुशलाः आचार्याश्चेति शिल्पिनः।
एकद्वित्रिचतुर्भागान् हरेयुस्ते यथोत्तरम् ।। ५६

क्रमागतं गृहक्षेत्रं पित्र्यं पैतामहं तथा।
पुत्रपौत्रसमृद्धस्य न देयमननुज्ञया।। ५७

न पुत्रेषु न दारेषु न च बन्धुष्वपेक्षिणः।
सर्वकार्येषु पुरुषाः स्वद्रव्ये प्रभविष्णवः।। ५८

उत्कोचजीविनो मर्त्यान् घोषयित्वा स्वमण्डलात्।
सर्वस्वहरणं कृत्वा राजा विप्रान् विवासयेत्।। ५९

[1]शिक्षयन्तमदुष्टं स यस्त्वाचार्यं परित्यजेत्।
बलाद्धारयितव्यः स्यात् वधबन्धौ च सोऽर्हति।। ६०

गृहीतशिल्पः समये कृत्वाऽऽचार्यं प्रदक्षिणम्।
शक्तितश्चानुमान्यैवमन्तेवासी निवर्तते।। ६१

गोभिर्विनाशितं धान्यं यो नरः प्रतियाचते।
पितरस्तस्य नाश्नन्ति नाश्नन्ति च दिवौकसः।। ६२

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1. This verse is cited under both Katyayana and Brhaspati (कात्यायन-बृहस्पती)

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पथि क्षेत्रे वृतिः कार्या यामुष्ट्रो नावलोकयेत्।
न लङ्घयेत्पशुर्वोष्ट्रो न भिद्यातां श्वसूकरौ।। ६३

यावत्सस्यं विनश्येत्तु तावद्देयं च गोमिना।
पलालं गोमिने देयं धान्यं तत्कर्षकाय तु।।
कार्यसंप्रतिपत्त्या वा स्वामिकर्षकगोमिनाम्।। ६४

गवां निर्गच्छतां ग्रामात् काचित्पार्श्वे प्रमादतः।
ग्रसेन्निर्गत्य सस्यानि तद्दोषः स्वामिपालयोः।। ६५

समूहकार्यप्रहितो यल्लभेत तदर्पयेत् ।
एकादशगुणं दाप्यो यद्यसौ नार्पयेत्स्वयम् ।। ६६

समूहकार्य आयातान् कृतकार्यान् विसर्जयेत्।
सदानमानसत्कारैः पूजयित्वा महीपतिः।
ततो लभेत यत्किंचित् सर्वेषामेव तत्समम्।। ६७
क्रीत्वा नानुशयं कुर्यात् वणिकपण्यविचक्षणः।
क्षयं वृद्धिं च जानानः पण्यानां यस्य यादृशम्।। ६८

परीक्षेत स्वयं पण्यमन्येषां च प्रदर्शयेत्।
परीक्षितं बहुमतं गृहीत्वा न पुनस्त्यजेत् ।। ६९

न सामन्तैर्न सङ्ग्रामैः तस्य मूल्यं नियम्यते।
इदमस्येति यत्क्रेता विक्रेत्रा सह संवदेत्।। ७०

[२]अर्धाधिके क्रयः सिद्ध्येत् दद्याद्धीनां क्रयी धनम्।
आदशाहान्निवर्त्यः स्यात् क्रयो विक्रय एव च ।। ७१

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2. Varadaraja cites the following verse under Vrddha - Katyayana :

सन्धिश्च परिवृत्तिश्च विषमा वा त्रिभोगतः ।
आज्ञया विक्रयश्चापि निवर्त्याः परिकीर्तिताः ।।

But Mr. KANE has included it under Katyayana as verse 701 (Katyayanasmrti - saroddhara, p. 86), on the authority of Sarasvativilasa, p. 320.

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सन्धिश्च परिवृत्तिश्च विभागश्च समो यदि।
आदशाहान्निवर्त्याः स्युः वैषम्ये नववत्सरात्।। ७२

सिद्ध्यते वाचिकोऽप्याधिः स्थावरेषु दशाब्दिकः।
जङ्गमेषु द्वादशाब्दादुक्तालाभोऽपि सिद्ध्यति।। ७३

प्रतिदाने व्यवस्थाप्य कालं पूर्वं सवृद्धिकम्।
अस्येदं क्रय्यमित्युक्त्वा यत्तु निर्दिश्यते पुरा।।
धनिकस्य तदा तत्स्वमुक्तालाभे भविष्यति।। ७४

भूर्हीनमूल्या गावश्च परस्वं च निवर्तते।
पञ्चांशत्र्यंशहीने च विपरीतं प्रसिद्ध्यति।। ७५

ज्ञात्यादिप्रत्ययेनैव स्थावरक्रय इष्यते।
परिवृत्तौ कृषौ दाने तथासौ नेष्यते बुधैः ७६
या राज्ञा क्रोधलोभेन छलान्यायेन वा हृता।
प्रदत्ताऽन्यस्य तुष्टेन न सा सिद्धिमवाप्नुयात्।। ७७

प्रमाणरहितां भूमिं भुञ्जतो यस्य या हृता।
गुणाधिकाय वा दत्ता तस्य तां न विचालयेत्।। ७८

क्षेत्रं गृहीत्वा यः कश्चित् न कुर्यान्न च कारयेत्।
स्वामिने स शतं दाप्यो राज्ञे दण्डं च तत्समम्।। ७९

चिरावसन्ने दशमं कृष्यमाणे तथाऽष्टमम्।
सुसंकृते तु षष्टं स्यात् परिकल्प्या यथास्थितिः।। ८०

स च यद्यन्यजातीयः पतिताः क्लीब एव वा।
विकर्मस्थः सगोत्रो वा दीर्घतीव्रामयोऽपि वा।। ८१

क्लीबोऽन्यो यदि वा भर्ता विसृष्टःपुंस्त्वकारणैः।
ऊढाऽपि देया साऽन्यस्मै सर्वाभरणभूषणा।। ८२

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प्रदाय शुल्कं गच्छेद्यः कन्यायाः स्त्रीधनं तथा।
धार्या सा वर्षमेकं तु देयाऽन्यस्मै विधानतः ८३

अथ प्रवृत्तिरागच्छेत् प्रतीक्षेत समात्रयम्।
अत ऊर्ध्वं प्रदातव्या कन्याऽन्यस्मै यथेच्छया।। ८४

[3]कन्यां चेत् दर्शयित्वाऽन्यामन्या वोद्वे प्रदीयते।
स उभे एकशुल्केन वहेदित्यब्रवीन्मनुः ।। ८५

गूहयित्वाऽऽत्मनो दोषान् विन्दते कन्यकां यदि।
वरस्य दत्तनाशः स्यात् कन्या चापि निवर्तते।। ८६

पित्रा भर्तां न योज्या स्त्री षड्वर्षं प्रोषिते प्रभौ।
नष्टे तृतीयं.....प्रव्रजितेऽपि वा।। ८७

पत्यौ नष्टे प्रयुक्तायां तस्यामन्यत्र बन्धुभिः।
तस्माच्चैव प्रसूतायां कथं तत्रागते भवेत्।। ८८

पतिर्लभेत भार्यां तां सापत्यामपि धर्मतः।
[4]क्षेत्रिणस्त्वेव तान् पुत्रान् मनुराह न बीजिनः।। ८९

प्रव्रज्यावसितो यत्र पुनर्दारान् समाहरेत्।
नासौ स्वामी भवेत्तत्र दासो ह्येष विगर्हितः।। ९०

दायविभागकाण्डे

रिक्थं प्रतिपदानां तु दत्वा शेषं विभाजयेत्।
आचतुर्थात्तु तद्ग्राह्यं क्रमेणैव तु तत्सुतैः।। ९१

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3. Manu VIII, 204 presents the same idea :-

अन्या चेद्दर्शयित्वान्या वोढुः कन्या प्रदीयते ।
उभे ते एकशुल्केन वहेदित्यब्रवीन्मनुः ।।

The textual variations between Manu and Katyayana are slight. The fourth pada of the verse वहेदित्यब्रवीन्मनुः is reproduced in both Katyayana and Manu.

4. Manu. IX, 47 to 52.

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क्षेत्रारामगृहादीनां विभागे समुपस्थिते।
ज्येष्ठस्य दक्षिणो भागः प्रतीची वा तथा भवेत्।। ९२
दत्तस्य जनकापत्ये मृते तस्मिन्नपि स्वयम्।
कृत्वा कर्म सपिण्डान्तं अखिलं रिक्थमाप्नुयात्।। ९३
[5]क्रीणीयाद्यस्त्वपत्यार्थं मातापित्रोर्यमान्तिकात्।
स क्रीतकः सुतस्तस्य सदृशोऽसदृशोऽपि वा।। ९४
[6]मातापितृविहीनो यः त्यक्तो वा स्यादकारणात्।
आत्मानं स्पर्शयेद्यस्मै स्वयं दत्तस्तु स स्मृतः।। ९५
[7]सदृशं तु प्रकुर्याद्यं गुणदोषविचक्षणम्।
पुत्रं पुत्रगुणैर्युक्तं स विज्ञेयस्तु कृत्रिमः ।। ९६
उत्पद्यते गृहे यस्य न च ज्ञायेत कस्यचित्।
स्वगृहे गूढ उत्पन्नः तस्य स्याद्यस्य तल्पजः।। ९७
मातापितृभ्यामुत्सुष्टं तयोरन्यतरेण वा।
यं पुत्रं परिगृह्णीयादपविद्धः स उच्यते।। ९८
पितृवेश्मनि कन्या तु यं पुत्रं जनयेद्रहः।
तं कानीनं विदुर्नाम्ना वोढुः कन्यासमुद्भवम्।। ९९
अन्यो यदि दहेत्कश्चित् पुत्राच्छिष्याच्च सोदरात्।
संस्कारोदककृद्विप्रः प्रमीतस्य तु तद्धनात्।। १००
दशमांशं हरेदर्धी पञ्चमं सर्वमेव वा।
बहुरक्ष्यस्य दशममल्परक्ष्यस्य पञ्चमम्।। १०१
अपुत्रपितृभार्यस्य सर्वमेवेति शौनकः।[8]
अन्यो यदि दहेत् कश्चिद् पुत्राच्छिष्याच्च तद्धनात् ।

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5. This verse is identical with Manu. IX, 174.
6. This is identical with Manu. IX, 177.
7. These four verses are identical with Manu. IX, 169-172 except for a slight variation in the third pada of v. 172 वदोन्नाम्ना for विदुर्नाम्ना.
8. Saunaka is one o the Smrtikaras cited by Manu. III, 16. See Kane, History of Dharmasastra, p. 132.

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गोसहस्रं शतं वाऽर्थात् गृह्णीयात्तस्य दक्षिणाम्।। १०२

[9]समुत्पन्नाद्धनादर्धं तदर्धे स्थापयेत्पृथक्।
मासषाण्मासिके श्राद्धे वार्षिके च प्रयत्नतः।। १०३

स्त्रीणां भर्तृकुलाल्लब्धं पितुः कुलत एव वा।
भूषणं न विभाज्यं स्यात् जीवने च न योजयेत्।। १०४

द्यूतसमाह्वयादिषट्पदकाण्डे

कूटस्य बहवो यत्र प्रहरन्ति रूषाऽन्विताः।
मर्मप्रहारदो यस्तु घातकः स उदाहृतः।। १०५

मर्मघाती च यस्तेषां यथोक्तं दापयेद्दमम्।
आरम्भकः सहायाश्च दोषभाजस्तदर्थतः।। १०६

मनुष्यमारणे क्षिप्रं चोरवत्किल्बिषं भवेत्।
प्राणभृत्सु महत्स्वर्धं गोखरोष्ट्रगवादिषु।। १०७

क्षुद्रकाणां पशूनां च हिंसायां दशमो दमः।
पञ्चाशतं भवेद्दण्ड शुभेषु मृगपक्षिषु।। १०८

गर्दभाजाविकानां तु दण्डः स्यात्पञ्चमाषकः।
माषकस्तु भवेद्दण्डः श्वसूकरनिपातने।। १०९

यच्च यस्योपकरणं येन जीवन्ति कारवः।
सर्वस्वहरणेऽप्येषां न राजा हर्तुमर्हति।। ११०

सर्वकण्टकपापिष्ठं हेमकारं तु पार्थिवः।
प्रवर्तमानमन्याये छेदयेल्लवशः क्षुरैः।। १११

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9. Three manuscripts of Vyavaharanirnaya attribute this verse to Katyayana as also the following :

कुले विनीतविद्यानां भ्रातृणां पितृतोऽथवा ।
तया प्राप्तं तु तद्वित्तं विभाज्यं तद्बृहस्पतिः ।।

The latter is included in Katyayanasmrtisaroddhara as v. 874, while the former is not found.

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गोभूहिरण्यरत्नानां आत्मीयानां स्त्रिया विना।
विक्रयाधिप्रदानं तु कृतं सिद्ध्येन्नृभिः सदा।। ११२

स्त्रीकृतान्यप्रमाणानि कार्याण्याहुरनापदि।
विशेषतो गृहक्षेत्रदानाधमनविक्रियाः।। ११३

एतान्येव प्रमाणानि भर्त्रा यद्यनुमन्यते।
पुत्रः पत्युरभावे वा भ्राता वा पतिपुत्रयोः।। ११४

प्रकीर्णके

वाग्दण्डं प्रथमं कुर्यात् धिग्दण्डं तदनन्तरम्।
तृतीयं धनदण्डं तु वधदण्डमतः परम्।। ११५

वधेनापि यदा त्वेतान् निगृहीतुं न शक्नुयात्।
तदैषु सर्वमप्येतत् प्रयुञ्जीत चतुष्टयम् ।। ११६

अधार्मिकांस्त्रिभिर्न्यायैः निगृह्णीयात् प्रयत्नतः।
निरोधनेन बन्धेन विविधेन भयेन च।। ११७

[10]बन्धनानि च सर्वाणि राजमार्गे निवेशयेत्।
दुःखिता यत्र दृश्यन्ते विकृताः पापकारिणः।। ११८

[11]दशस्थानानि दण्डस्य मनुः स्वायंभुवोऽब्रवीत्।
त्रिषु वर्णेषु तानि स्युरक्षतो ब्राह्मणो व्रजेत्।। ११९

उपस्थमुदरं जिह्वा हस्तौ पादौ च पञ्चमम्।
चक्षुर्नासा च कर्णौ च धनं देहस्तथैव च ।। १२०

स्त्रीबालोन्मत्तवृद्धानां दरिद्राणां तु रोगिणाम्।
शिफाविदलरज्ज्वाद्यैः विदध्यान्नृपतिर्दमम्।। १२१

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10. This is identical with Manu. IX. 288.
11. This and the following three lines are identical with Manu. VIII, 124-125.

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APPENDIX - A

List of Cases and I.W. Reports referred to in the notes.

The figures refer to the verses. The abbreviations employed are as follows :-

Moo.I.A	- Moore's Indian Appeals
I.A.	- Law Reports, Indian Appeals
I.LR.	- Indian Law Reports
Bom	- Indian Law Reports, Bombay Series
Bom.L.R.	- Ratanlal's Bombay Law Reporter
Bom H.C.R.	- Bombay High Court Reports Series
Cal.	- Indian Law Reports, Calcutta Series
P.J.	- Printed Judgement of the Bombay High Court
All	- Indian Law Reports, Allahabad Series
Mad. H.C.R.	- Madras High Court Reports
Patna	- Indian Law Reports, Patna Series
Patna L.J.	- Patna Law Journal
Lahore	- Indian Law Reports, Lahore Series.

Aduyapa v. Rudrava 4 Bom. 104-v.926

Bhagavanal v. Boli Divali 27 Bom. L.R. 633. vv. 905-906.

Bhagirthibai v. Kahnojirao 11 Bom. 285 (F.B.) vv - 905.6

Bhagavati Shukul v. Ram Jatan 45 All. 297 v. 858.

Bhau v. Raghunath 34 Bom. 229 - vv. 905-6.

Bhugwandeen v. Mynabee 11 M.I.A. 488, p. 512-vv 894, 921, 924-25.

Collector of Madura v. Mootoo Ramlinga 12 M.I.A. 397 - vv. 863-864.

Collector of Masulipatnam v. Cavaly Venkata 8 Moo I.A. 500 - v. 931.

Collector of Thana v. Krishnanath 5 Bom. 3-2 v. 882.

Collector of Thana v. Hari Sitaram 6 Bom. 546 (F.B.) v. 882.

Debi pershad v. Thakur Dial 1 All. 105 (F.B.) vv 855 - 56.

Durgadat v. Ganesh 32 All 305 - v. 807

Fattesangji v. Dessai Kallian raiji 11 A. 31-v, 882.

Jatindra Mohan v. Ghanashyam 50 Cal. 266-v.882.

Khushalchand v. Mahadevgiri (1875) P.J. 276 - v. 882.

Lakshmandas v. Manchar 10 Bom. 149-v. 882.

Lalubhai v. Bai Amrit 2 Bom. 299-vv. 226, 316, 893.

Muthu Ramkrishna v. Marimuthu Goundan 38 Mad. 1036 v. 904.

Moro v. Ganesh 10 Bom. HCR 444 - vv. 855-56.

Mulchand v. Bai Mancha 7 Bom. 491 vv. 905-6.

Nagindas v. Bachoo 43 I.A. 56 v. 857.

Narasimha v. Venkatadri 8 Mad. 290 vv 924 - 925.

Narayan v. Venkatacharya 6 Bom. L.R. 434 - v 534.

Narotam v. Nanka 6 Bom. 473 v. 546.

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Natha v. Chotalal 32 Bom. L. R. 1348 vv. 863 64.
Nathubhai v. Javer 1 Bom. 121 vv. 905-906.
Pandharinath v. Govind 32 Bom. 59 vv. 924-25.
Ponappa Pillai v. Pappurayangar 4 Mad. 1-vv. 840-849-50.
Saundanappa v. Shivbaswa 31 Bom. 354 - v. 504.
Shantaram v. Vaman 47 Bom. 389 v. 884.
Shri Sitaram v. Shri Harihar 35 Bom. 169 vv. 648 - 649.
Sitabai v. Vasantrao 3 Bom. L.R. 20-vv 899-900.
Suraj Bansi Keer v. Sheo Prashad 6 I.A. 88-v.560.
Tukarambhat v. Gangaram 23 Bom. 454 v. 536.
Viraswami v. Appaswami I. Mad. HCR 375 - 545.
8 Moo I.A. 29 - vv. 924 - 925.
8 Moo. I.A. 500 - v. 931
11 Moo. I.A. 487, 512 - vv 894, 908-910, 921, 924-25.
12 Moo. I.A. 397-vv. 863-864.
1 I.A. 31-v. 882
4 I.A. 109-v. 867
6 I.A. 88 v. 560
26 I.A. 71 v. 566
43 I. A. 56 v. 857
45 I. A. 41-v. 867
47 I.A. 162 v. 867
48 I.A. 162 v. 867
48 I.A. 280 v. 857
51 I.A. 129 v. 560
53 I. A. 163 v. 931
53 I.A. 204 v. 560
2 Bom HCR 64 v. 560
6 Bom HCR 1 v. 867
10 Bom. HCR 444-vv. 855-56
1 Bom. 26. v 931
1 Bom. 73 vv. 510-512
1 Bom. 121 vv. 546, 905, 906, 911-12
2 Bom. 299 vv 226, 316, 893
2 Bom. 494. vv. 922-23
2 Bom. 573 - v. 931
4 Bom. 104 v. 926
3 Bom. 131 vv. 510-512
5 Bom. 99 v. 274
5 Bom. 322 v. 882
6 Bom. 24 v. 566
6 Bom. 473 - v.546
6 Bom. 546 (F.B.) - v. 882
7 Bom. 491 vv.905-6
10 Bom. 149-v. 882
10 Bom. 528.v . 839
11 Bom. 285 (F.B.) - vv. 905-906, 926
14 Bom. 482 - v. 566
15 Bom. 32-v.867
16 Bom. at p. 48-v. 839
17 Bom. 100-v.857
17 Bom. 351-v. 566
18 Bom. 136-v. 566
20 Bom. 721 (F.B.) - vv.510-512
23 Bom. 454 - v. 536
23 Bom. 725 (P.C.) - v. 566
26 Bom. 163-v. 931
31 Bom. 354-vv.504, 505
32 Bom. 59-vv. 924-25
34 Bom. 229-vv. 905-906
35 Bom. 169-vv. 648 - 649
35 Bom. 199-vv. 510-512
36 Bom. 275-v. 882

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36 Bom. 379-v.882
40 Bom. 270-v. 857
42 Bom. 136-vv. 924 - 925.
46 Bom. 213 v. 335
47 Bom. 389-v.884
48 Bom. 203-v. 931
49 Bom. 672 - v. 857
50 Bom. 604 - v. 931
P.J. (1875) p 276 - v. 882
1 Bom. L.R. 551-vv.510-512
2 Bom. L.R. 454 - v. 752 - 753
3 Bom. L.R. 201 - vv. 899 - 900, 901
6 Bom. L.R. - 434 - v. 534
8 Bom. L.R. 375 - v. 287
21 Bom. L.R. 419 - vv. 510-512
22 Bom. L.R. 226 - vv. 752 - 753
27 Bom. L.R. 633.vv. 905 - 906
31 Bom. L.R. - 199-v. 335
31 Bom. L.R. - 1030 - v. 335
32 Bom. L.R. - 1348 - vv. 863 - 64
5 Cal. 148 (P.C.) - v. 560
33 Cal. 315-vv.899 - 900
39 Cal. 843 - v. 536
45 Cal. 666 - v. 867
47 Cal. 274 - v. 335
50 Cal. 266-v. 882
1 Mad. HCR 85 - vv. 905-906
1 Mad HCR 375 - v. 545
2 Mad. HCR 56-v. 867
5 Mad. HCR 150-v. 866
1 Mad. 281-vv. 907, 911-12
4 Mad. 1 -vv. 840, 849-50
7 Mad. 407-v. 723
8 Mad. 290-vv. 908-910, 921, 924-925
28 Mad. 377 - v. 536
30 Mad. 340-vv. 566, 882
38 Mad. 1036 - v. 904
39 Mad. 298 - v. 901
41 Mad. 136 - v. 548
42 Mad. 711 (F.B.) - v. 548
43 Mad.398 - v. 857
44 Mad. 656 v. 857
50 Mad. 941 - vv. 913 -14
1 All. 46 (F.B.) - vv. 926 - 929
1 All. 105 (F.B.) - vv. 855-56
2 All 150 (F.B.) - v. 921
19 All. 26 (F.B.) - v. 560
26 All. 611-v. 536
32 All 305 - v. 867
33 All. 118. vv. 852 - 853
41 All. 130 vv. 924 - 25
45 All. 297 - v. 858
46 All. 95 (P.C.) - v. 530
48 All. 518 (P.C.) - v. 560
50 All. 532 - vv. 852 - 853
4 Patna 478 - v. 560
5 Patna 646 - v. 921
10 Patna 94 - v. 534
4 Patna L.J. - v. 534
2 Lahore 40 - v. 867
5 Lahore 70 - v. 921

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APPENDIX - B

List of important and technical Sanskrit words occuring in the text of Katyayana. The figures refer to verses.

Abhiyokta, complainant or plaintiff 121
Abhiyukta, accused or defendant, 121
Acarita, sitting dharna at the door of a debtor, 586.
Adhibhoga, taking profits of pledge or mortgage in lieu of interest, 501.
Adhyagni, kind of stridhana, 895
Adhyavhanika, kind of stridhana, 896.
Agama, title or source of title 317.
Ahuta - prapalayi, party absconding after summons, 202.
Ajnakraya, sale of land by king for state revenue, 701, 704.
Akramodha, a woman married in an improper order, 863.
Akula, making no sense 185.
Anakalabhrta (a slave) maintained during a famine, 731.
Andika, same as Karsapana, in Panjab, 494.
Anirdista, 520.
Anugama, certainly that there is no title, 321.
Anusista, decision on testimony of witness 495.
Anvadheya, gift subsequent made to a woman, 899-900.
Anvadhi, delivery by bailedd to another for handing over to the bailor, 611.
Anvahita, 592.
Anyakrta, an attested writing, 249.
Anyartha, irrelevant reply 181.
Anyavadi, one who changes his pleading 202.
Aparadha, matter investigated suo motu by king 948.
Aprasiddha, ununderstandable reply 176.
Apta, one who speaks the truth 347.
Apta 361.
Arthin, plaintiff or complainant 89.
Asara, absurd (reply) 186.
Asedha, restraint on or arrest of suitor 105.
Aslila, indecent 769, 771.
Atatayin, desperate man, felon, 803-804.
Atibhuri, too wide reply 179.
Atyayika, matter of an urgent nature 365.
Avakraya, transfer by a bailee 711.
Avyapaka, not meeting thoroughly, evasive 182.
Bhogalabha, a kind of interest 500.
Bhogyadhi, a pledge that is to be enjoyed 516.
Bhrti, reward for finding out a lost article 644.
Bhukit, possession 313.
Caritra, decision by usage 37.
Catuspatha, public road 755.
Dhanaka, a coin equl to four karsapanas 494.
Dharanika, a debtor 273.
Dharma, a method of decision in a suit 35.
Dharmadhikarana, hall of justice 52.
Dhata, ordeal of balance 419.

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Dhvajahrta, booty recovered in battle after putting to flight the enemy 878.
Dinara, a coin, same as suvarna 494.
Divya, an ordeal 411.
Dutaka, a person in the confidence of both parties 353.
Ekacehayapravista - undertaking joint and sever liability 537 - 538.
Ekacchayasrita - undertaking joint and sever liability 537 - 538.
Gana, as a tribunal 82, 225.
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